

## CITY FINANCE

### **384.1 Taxes certified.**

A city may certify taxes to be levied by the county on all taxable property within the city limits, for all city government purposes. However, the tax levied by a city on tracts of land and improvements thereon used and assessed for agricultural or horticultural purposes, shall not exceed three dollars and three-eighths cents per thousand dollars of assessed value in any year. Improvements located on such tracts of land and not used for agricultural or horticultural purposes and all residential dwellings are subject to the same rate of tax levied by the city on all other taxable property within the city. A city's tax levy for the general fund shall not exceed eight dollars and ten cents per thousand dollars of taxable value in any tax year, except for the levies authorized in section 384.12.

[C97, § 616, 890; S13, § 616; C24, 27, 31, 35, 39, § **6210**; C46, 50, § 404.4; C54, 58, 62, 66, 71, 73, § 404.1, 404.2, 404.15; C75, 77, 79, 81, § 384.1]

89 Acts, ch 296, §39

### **384.2 Fiscal year and tax year.**

Except as otherwise provided for special charter cities, a city's fiscal year shall be as provided in section 24.2, subsection 3. All city property taxes must be certified by a city to the county auditor on or before the fifteenth day of March of each year, unless otherwise provided by state law. However, municipal utilities, if not supported by taxation or the proceeds of outstanding indebtedness payable from taxes may, with the council's consent, choose to operate on a fiscal year which is the calendar year. The receipt by the utility of payments from other governmental funds for public fire protection, street lighting, or other public use of the utility's services shall not be deemed support by taxation. After notice and hearing in the same manner as required for the city's regular budget under section 384.16, the utility budget must be approved by resolution of the council not later than twenty days prior to the beginning of the calendar year for which the budget applies.

The county auditor shall place city taxes and assessments upon the tax list for the current year, and the county treasurer shall collect city taxes and assessments in the same manner as other taxes. Delinquent city taxes and assessments draw the same interest as other taxes. Sales for delinquent city taxes and assessments must be made in the manner provided in chapter 446. The county treasurer shall combine in one tax sale all taxes and assessments due from the same person and collectible by the county.

[R60, § 1123, 1126; C73, § 495, 498; C97, § 902; S13, § 902, 1056-a7, 1056-a34; C24, § 5678, 6227, 6228, 6570, 6571; C27, 31, 35, § 5676-a1, 6227, 6228, 6570, 6871; C39, § **5676.1, 6227, 6228, 6570, 6871**; C46, 50, § 363.51, 404.21, 404.22, 416.95, 420.212; C54, 58, § 363.29, 404.3, 404.21; C62, 66, 71, 73, § 363.29, 404.3, 404.22; C75, 77, 79, 81, § 384.2]

92 Acts, ch 1016, §7

### **384.3 General fund.**

All moneys received for city government purposes from taxes and other sources must be credited to the general fund of the city, except that moneys received for the purposes of the debt service fund, the trust and agency funds, the capital improvements reserve fund, the emergency fund and other funds established by state law must be deposited as otherwise required or authorized by state law. All moneys received by a city from the federal government must be reported to the department of management who shall transmit a copy to the legislative services agency.

[C50, § 395.26; C54, 58, § 395.26, 404.2, 404.23; C62, 66, 71, 73, § 395.26, 404.2, 404.24; C75, 77, 79, 81,

§ 384.3]

2003 Acts, ch 35, §45, 49

#### **384.4 Debt service fund.**

A city shall establish a debt service fund and shall certify taxes to be levied for the debt service fund in the amount necessary to pay:

1. Judgments against the city, except those authorized by state law to be paid from other funds.
2. Interest as it becomes due and the amount necessary to pay, or to create a sinking fund to pay, the principal at maturity of all general obligation bonds issued by the city or to pay, or to create a sinking fund to pay, amounts as due on loans received through the Iowa community development loan program.\*
3. Payments required to be made from the debt service fund under a lease or lease-purchase agreement.
4. Payments required to be made from the debt service fund under a loan agreement.

Moneys pledged or available to service general obligation bonds, and received from sources other than property taxes, must be deposited in the debt service fund.

If a final judgment is entered against a city with a population of five hundred or less for an amount in excess of eighty-eight thousand dollars over and above what is covered by liability insurance, such city may spread the budgeting and payment of that portion not covered by insurance over a period of time not to exceed ten years. Interest shall be paid by the city on the unpaid balance. This paragraph shall only apply to final judgments entered but not fully satisfied prior to March 25, 1976.

[C97, § 894; SS15, § 879-s, 894; C24, 27, 31, 35, 39, § **6211, 6603**; C46, 50, § 404.5, 416.132; C54, 58, 62, 66, 71, 73, § 404.13; C75, 77, 79, 81, § 384.4]

83 Acts, ch 207, § 52, 93; 85 Acts, ch 156, §4; 87 Acts, ch 103, §5

#### **Footnotes**

\*Iowa community development loan program, see § 15E.120

#### **384.5 Excess tax.**

A tax levied for the debt service fund is not invalid if it raises moneys in excess of those needed for a specific purpose. Only excess moneys remaining after retirement of all indebtedness payable from the fund may be transferred from the debt service fund to any other city fund, subject to the terms of the original bond issue, and as provided in rules promulgated by the city finance committee created in section 384.13.

[C51, § 123, 124; R60, § 259, 260; C73, § 318, 319; C97, § 897; C24, 27, 31, 35, 39, § **6222**; C46, 50, § 404.16; C54, 58, § 404.20; C62, 66, 71, 73, § 404.21; C75, 77, 79, 81, § 384.5]

#### **384.6 Trust and agency funds.**

A city may establish trust and agency funds for the following purposes:

1. Accounting for pension and related employee benefit funds as provided by the city finance committee. A city may make contributions to a retirement system other than the Iowa public employees' retirement system

for its city manager, or city administrator performing the duties of city manager, in an annual amount not to exceed the amount that would have been contributed by the employer under section 97B.11. If a police chief or fire chief has submitted a written request to the board of trustees to be exempt from chapter 411, authorized in section 411.3, subsection 1, a city shall make contributions for the chief, in an amount not to exceed the amount that would have been contributed by the city under section 411.8, subsection 1, paragraph "a", to the international city management association/retirement corporation. A city may certify taxes to be levied for a trust and agency fund in the amount necessary to meet its obligations.

2. Accounting for gifts received by the city for a particular purpose.

3. Accounting for money and property received and handled by the city as trustee or custodian or in the capacity of an agent.

[C54, 58, 62, 66, 71, 73, § 404.16; C75, 77, 79, 81, § 384.6]

85 Acts, ch 195, §45

### **384.7 Capital improvements fund.**

A city may establish a capital improvements reserve fund, and may certify taxes not to exceed sixty-seven and one-half cents per thousand dollars of taxable value each year to be levied for the fund for the purpose of accumulating moneys for the financing of specified capital improvements, or carrying out a specific capital improvement plan.

The question of the establishment of a capital improvements reserve fund, the time period during which a levy will be made for the fund, and the tax rate to be levied for the fund is subject to approval by the voters, and may be submitted at any city election upon the council's motion, or shall be submitted at the next regular city election upon receipt of a valid petition as provided in section 362.4.

If a continuing capital improvements levy is established by election, it may be terminated in the same manner, upon the council's motion or upon petition. Balances in a capital improvements reserve fund are not unencumbered or unappropriated funds for the purpose of reducing tax levies. Transfers may be made between the capital improvements reserve fund, construction funds, and the general fund, as provided in rules promulgated by the city finance committee created in section 384.13.

[C75, 77, 79, 81, § 384.7]

### **384.8 Emergency fund.**

A city may establish an emergency fund and may certify taxes not to exceed twenty-seven cents per thousand dollars of taxable value each year to be levied for the fund. Transfers may be made from the emergency fund to the general fund as provided in rules promulgated by the city finance committee created in section 384.13.

[C24, 27, 31, 35, 39, § 373; C46, 50, 54, 58, 62, 66, 71, 73, § 24.6; C75, 77, 79, 81, § 384.8]

### **384.9 Additional funds.**

A city may establish other funds and may certify taxes to be levied for the funds as provided by state law. The status of each account or fund must be included in the annual report required in section 384.22.

[C54, 58, 62, 66, 71, 73, § 404.1; C75, 77, 79, 81, § 384.9]

### **384.10 Short-term loans.**

A city may negotiate short-term loans, and may issue warrants as provided in chapter 74, in anticipation of and not in excess of its estimated revenues for the current fiscal year. However, natural disaster loans from the state or federal government and loans for projects where payment of state or federal funds has been guaranteed but receipt of such funds may not coincide with the fiscal year, may be negotiated in anticipation of revenues for a period of time longer than the current fiscal year.

[R60, § 1129; C73, § 500; C97, § 898; C24, 27, 31, 35, 39, § 6223; C46, 50, § 404.17; C54, 58, § 404.18; C62, 66, 71, 73, § 404.19; C75, 77, 79, 81, § 384.10]

### **384.11 Direct deposit of taxes.**

Before the fifteenth day of each month, the county treasurer shall send the amount collected for each fund through the last day of the preceding month for direct deposit into the depository and the account designated by the city clerk. The county treasurer shall send a notice at the same time to the city clerk stating the amount deposited, date, amount to be credited to each fund according to the budget, and the source of the revenue. This section shall also apply to the collection of special assessments assessed under section 364.12 or division IV of this chapter.

[R60, § 1123, 1126; C73, § 495, 498; C97, § 902; S13, § 902; C24, 27, 31, 35, 39, § 6229; C46, 50, § 404.23; C54, 58, § 404.19; C62, 66, 71, 73, § 404.20; C75, 77, 79, 81, § 384.11; 82 Acts, ch 1195, § 5]

84 Acts, ch 1003, § 9

### **384.12 Additional taxes.**

A city may certify, for the general fund levy, taxes which are not subject to the limit provided in section 384.1, and which are in addition to any other moneys the city may wish to spend for such purposes, as follows:

1. A tax not to exceed thirteen and one-half cents per thousand dollars of assessed value for the support of instrumental or vocal musical groups, one or more organizations which have tax-exempt status under section 501(c)(3) of the Internal Revenue Code and are organized and operated exclusively for artistic and cultural purposes, or any of these purposes, subject to the following:

*a.* Upon receipt of a petition valid under the provisions of section 362.4, the council shall submit to the voters at the next regular city election the question of whether a tax shall be levied.

*b.* If a majority approves the levy, it may be imposed.

*c.* The levy can be eliminated by the same procedure of petition and election.

*d.* A tax authorized by an election held prior to the effective date of the city code may be continued until eliminated by the council, or by petition and election.

2. A tax not to exceed eighty-one cents per thousand dollars of assessed value for development, operation, and maintenance of a memorial building or monument, subject to the provisions of subsection 1.

3. A tax not to exceed thirteen and one-half cents per thousand dollars of assessed value for support of a symphony orchestra, subject to the provisions of subsection 1.

4. A tax not to exceed twenty-seven cents per thousand dollars of assessed value for the operation of cultural and scientific facilities, subject to the provisions of subsection 1, except that the question may be submitted on the council's own motion.

5. A tax to aid in the construction of a county bridge, subject to the provisions of subsection 1, except that the question must be submitted at a special election. The expense of a special election under this subsection must be paid by the county. The notice of the special election must include full details of the proposal, including the location of the proposed bridge, the rate of tax to be levied, and all other conditions.

6. A tax to aid a company incorporated under the laws of this state in the construction of a highway or combination bridge across any navigable boundary river of this state, commencing or terminating in the city and suitable for use as highway, or for both highway and railway purposes. This tax levy is subject to the provisions of subsections 1 and 5. The levy is limited to one dollar and thirty-five cents per thousand dollars of the assessed value of taxable property in the city. The estimated cost of the bridge must be at least ten thousand dollars, and the city aid may not exceed one-half of the estimated cost. The notice of the special election must include the name of the corporation to be aided, and all conditions required of the corporation. Tax moneys received for this purpose may not be paid over by the county treasurer until the city has filed a statement that the corporation has complied with all conditions.

7. If a tax has been voted for aid of a bridge under subsection 6, a further tax may be voted for the purpose of purchasing the bridge, subject to the provisions of subsection 1. The levy under this subsection is limited to three dollars and thirty-seven and one-half cents per thousand dollars of the assessed value of the taxable property in the city, payable in not less than ten annual installments.

8. A tax for the purpose of carrying out the terms of a contract for the use of a bridge by a city situated on a river over which a bridge has been built. The tax may not exceed sixty-seven and one-half cents per thousand dollars of assessed value each year.

9. A tax for aid to a public transportation company, subject to the procedure provided in subsection 1, except the question must be submitted at a special election. The levy is limited to three and three-eighths cents per thousand dollars of assessed value. In addition to any other conditions the following requirements must be met before moneys received for this purpose may be paid over by the county treasurer:

*a.* The public transportation company shall provide the city with copies of state and federal income tax returns for the five years preceding the year for which payment is contemplated or for such lesser period of time as the company has been in operation.

*b.* The city shall, in any given year, be authorized to pay over only such sums as will yield not to exceed two percent of the public transportation company's investment as the same is valued in its tax depreciation schedule, provided that corporate profits and losses for the five preceding years or for such lesser period of time as the company has been in operation shall not average in excess of a two percent net return. Taxes levied under this subsection may not be used to subsidize losses incurred prior to the election required by this subsection.

10. A tax for the operation and maintenance of a municipal transit system or for operation and maintenance of a regional transit district, and for the creation of a reserve fund for the system or district, in an amount not to exceed ninety-five cents per thousand dollars of assessed value each year, when the revenues from the transit system or district are insufficient for such purposes.

11. If a city has entered into a lease of a building or complex of buildings to be operated as a civic center, a tax sufficient to pay the installments of rent and for maintenance, insurance and taxes not included in the lease rental payments.

12. A tax not to exceed thirteen and one-half cents per thousand dollars of assessed value each year for operating and maintaining a civic center owned by a city.

13. A tax not to exceed six and three-fourths cents per thousand dollars of assessed value for planning a sanitary disposal project.
14. A tax not to exceed twenty-seven cents per thousand dollars of assessed value each year for an aviation authority as provided in section 330A.15.
15. If a city has joined with the county to form an authority for a joint county-city building, as provided in section 346.27, and has entered into a lease with the authority, a tax sufficient to pay the annual rent payable under the lease.
16. A tax not to exceed six and three-fourths cents per thousand dollars of assessed value each year for a levee improvement fund in special charter cities as provided in section 420.155.
17. A tax not to exceed twenty and one-half cents per thousand dollars of assessed value each year to maintain an institution received by gift or devise, subject to an election as required under subsection 1.
18. A tax to pay the premium costs on tort liability insurance, property insurance, and any other insurance that may be necessary in the operation of the city, the costs of a self-insurance program, the costs of a local government risk pool and amounts payable under any insurance agreements to provide or procure such insurance, self-insurance program, or local government risk pool.
19. A tax to fund an emergency medical services district under chapter 357G.
20. A tax that exceeds any tax levy limit within this chapter, provided the question has been submitted at a special levy election and received a simple majority of the votes cast on the proposition to authorize the enumerated levy limit to be exceeded for the proposed budget year.
  - a. The election may be held as specified in this subsection if notice is given by the city council, not later than thirty-two days before the second Tuesday in March, to the county commissioner of elections that the election is to be held.
  - b. An election under this subsection shall be held on the second Tuesday in March and be conducted by the county commissioner of elections in accordance with the law.
  - c. The ballot question shall be in substantially the following form:
 

WHICH TAX LEVY SHALL BE ADOPTED FOR THE CITY OF .....

(Vote for only one of the following choices.)

CHANGE LEVY AMOUNT .....

Add to the existing levy amount a tax for the purpose of ..... (state purpose of proposed levy) at a rate of ..... (rate) which will provide an additional \$..... (amount).

KEEP CURRENT LEVY .....

Continue under the current maximum rate of ....., providing \$..... (amount).
  - d. The commissioner of elections conducting the election shall notify the city officials and other county auditors where applicable, of the results within two days of the canvass which shall be held beginning at one o'clock on the second day following the special levy election.

*e.* Notice of the election shall be published twice in accordance with the provisions of section 362.3, except that the first such notice shall be given at least two weeks before the election.

*f.* The cost of the election shall be borne by the city.

*g.* The election provisions of this subsection shall supersede other provisions for elections only to the extent necessary to comply with the provisions hereof.

*h.* The provisions of this subsection apply to all cities, however organized, including special charter cities which may adopt ordinances where necessary to carry out these provisions.

*i.* The council shall certify the city's budget with the tax askings not exceeding the amount approved by the special levy election.

21. A tax not to exceed twenty-seven cents per thousand dollars of assessed value for support of a public library, subject to petition and referendum requirements of subsection 1, except that if a majority approves the levy, it shall be imposed.

22. A tax for the support of a local emergency management commission established pursuant to chapter 29C.

1. [C24, 27, 31, 35, 39, § **58355839**; C46, 50, 54, 58, 62, 66, 71, 73, § 375.1375.5; C75, 77, 79, 81, S81, § 384.12(1)]

2. [C75, 77, 79, 81, S81, § 384.12(2)]

3. [C50, 54, 58, 62, 66, 71, 73, § 379A.1379A.5; C75, 77, 79, 81, S81, § 384.12(3)]

4. [C62, 66, 71, 73, § 379B.1, 379B.2; C75, 77, 79, 81, S81, § 384.12(4)]

5, 6. [R60, § 710; C73, § 796; C97, § 758764, 888, 895, 1303; C24, 27, 31, 35, 39, § **58825887, 6209, 6221**; C46, 50, § 381.9381.14, 404.3, 404.15; C54, 58, 62, 66, 71, 73, § 381.9381.14, 404.7; C75, 77, 79, 81, S81, § 384.12(5, 6)]

7. [S13, § 766-a, 766-b; C24, 27, 31, 35, 39, § **5890, 5891, 5894**; C46, 50, 54, 58, 62, 66, 71, 73, § 381.17, 381.18, 382.1; C75, 77, 79, 81, S81, § 384.12(7)]

8. [C97, § 766; C24, 27, 31, 35, 39, § **5889**; C46, 50, 54, 58, 62, 66, 71, 73, § 381.16; C75, 77, 79, 81, S81, § 384.12(8)]

9. [C58, 62, 66, 71, 73, § 386A.1, 386A.4, 386A.9, 386A.12; C75, 77, 79, 81, S81, § 384.12(9)]

10. [C58, 62, 66, 71, 73, § 386B.12; C75, 77, 79, 81, S81, § 384.12(10)]

11. [C71, 73, § 378A.6; C75, 77, 79, 81, S81, § 384.12(11)]

12. [C71, 73, § 378A.10; C75, 77, 79, 81, S81, § 384.12(12)]

13. [C71, 73, § 404.27; C75, 77, 79, 81, S81, § 384.12(13)]

14. [C75, 77, 79, 81, S81, § 384.12(14)]

15. [C66, 71, 73, § 368.67; C75, 77, 79, 81, S81, § 384.12(15); 81 Acts, ch 117, § 1081; 82 Acts, ch 1104, § 14]

16. [C75, 77, 79, 81, S81, § 384.12(16)]

17. [S13, § 740; C24, 27, 31, 35, 39, § 10190; C46, 50, 54, 58, 62, 66, 71, 73, § 565.8; C75, 77, 79, 81, S81, § 384.12(18); 81 Acts, ch 117, § 1081]

18. [C75, 77, 79, 81, S81, § 384.12(19)]

20. [C81, S81, § 384.12(20)]

83 Acts, ch 101, § 82; 85 Acts, ch 195, §46; 86 Acts, ch 1211, § 23; 88 Acts, ch 1213, §1; 89 Acts, ch 203, §1; 91 Acts, ch 247, §1; 92 Acts, ch 1139, §29; 94 Acts, ch 1075, §15; 94 Acts, ch 1180, §56; 95 Acts, ch 189, §21; 2004 Acts, ch 1072, §8

### **384.13 City finance committee.**

As used in this division, unless the context otherwise requires, "*committee*" means the city finance committee and "*director*" means the director of the department of management. A nine-member city finance committee is created. Members of the committee are:

1. The auditor of state or the auditor's designee.
2. A designee of the governor.
3. Five city officials who are regularly involved in budget preparation. One official must be from a city with a population of not over two thousand five hundred, one from a city with a population of over two thousand five hundred but not over fifteen thousand, one from a city with a population of over fifteen thousand but not over fifty thousand, one from a city with a population of over fifty thousand, and one from any size city. The governor shall select and appoint the city officials.
4. One certified public accountant experienced in city accounting, to be selected and appointed by the governor.
5. One operations research analyst experienced in cost effectiveness analysis of city services to be selected by, and serve at the pleasure of, the legislative council of the general assembly.

City official members and the certified public accountant are appointed for four-year terms beginning and ending as provided in section 69.19 and the terms of the city officials are staggered. When a city official member no longer holds the office which qualified the official for appointment, the official may no longer be a member of the committee. Any person appointed to fill a vacancy during a term is appointed to serve for the unexpired portion of the term. Any member is eligible for reappointment, but no member shall be appointed to serve more than two complete terms.

[C75, 77, 79, 81, § 384.13]

86 Acts, ch 1245, § 118

### **384.14 Office, expenses, compensation.**

The committee is located for administrative purposes within the department of management. The director of the department of management shall provide office space and staff assistance, and shall budget funds to cover expenses of the committee.

Each member is entitled to receive actual and necessary expenses incurred in the performance of committee duties. Each member other than the state official members is also entitled to receive a per diem as specified in section 7E.6 for each day spent in performance of committee duties.

[C75, 77, 79, 81, § 384.14]

86 Acts, ch 1245, § 119; 91 Acts, ch 258, §51

### **384.15 Duties rules law enforcement officer training reimbursement.**

The committee shall:

1. Promulgate rules relating to budget amendments and the procedures for transferring moneys between funds, and other rules necessary or desirable in order to exercise its powers and perform its duties, including rules necessary to implement section 384.6, subsection 1. The committee's rules are subject to chapter 17A as applicable.
2. Select its officers and meet at the call of the director of the department of management or at the request of a majority of the committee.
3. Establish guidelines for program budgeting and accounting and the preparation of five-year capital improvement plans. A city shall hold a public hearing on its capital improvement plan before adoption of the plan. The committee may require performance budgeting. It shall, where practicable, use recommendations of the national council on governmental accounting.
4. Review and comment on city budgets to city officials and provide assistance to enable cities to improve upon and use sound financial procedures.
5. Conduct studies of municipal revenues and expenditures.
6. Advise and make recommendations annually to the governor and the general assembly concerning city budgets and finance.
7. Adopt rules for the administration of a law enforcement officer training reimbursement program by the director of the department of management. A decision of the director may be appealed by a city or county to the committee. The program shall provide reimbursement to a city or county for necessary and actual expenses incurred in training a law enforcement officer who resigns from law enforcement service with the city or county within four years after completion of the law enforcement training. The reimbursable training expenses include mileage, food, lodging, tuition, replacement of an officer while the officer is in training if the replacement officer is a temporary employee hired for that purpose only or is on overtime status, and salary costs of the officer while in training. The law enforcement training eligible for reimbursement is the minimum law enforcement officer training required under chapter 80B and, if funding is available, approved advanced law enforcement training and reserve officer training required under chapter 80D. The committee shall adopt rules prescribing application forms, expense documentation, and procedures necessary to administer the reimbursement program.
  - a. The amount of reimbursement shall be determined as follows:
    - (1) If a law enforcement officer resigns less than one year following completion of approved training, one hundred percent.
    - (2) If a law enforcement officer resigns one year or more but less than two years after completion of approved training, seventy-five percent.

(3) If a law enforcement officer resigns two years or more but less than three years after completion of the approved training, fifty percent.

(4) If a law enforcement officer resigns three years or more but not more than four years after completion of the approved training, twenty-five percent.

*b.* An appropriated law enforcement training reimbursement account is established in the department of management. The proceeds shall be used by the director of the department of management to reimburse cities or counties for eligible law enforcement training expenses incurred as provided in this section.

[C75, 77, 79, 81, § 384.15]

84 Acts, ch 1274, § 1; 86 Acts, ch 1245, § 120; 90 Acts, ch 1092, § 6; 90 Acts, ch 1250, § 4; 90 Acts, ch 1266, § 42

### **384.16 City budget.**

Annually, a city shall prepare and adopt a budget, and shall certify taxes as follows:

1. A budget must be prepared for at least the following fiscal year. When required by rules of the committee, a tentative budget must be prepared for one or two ensuing years. A proposed budget must show estimates of the following:

*a.* Expenditures for each program.

*b.* Income from sources other than property taxation.

*c.* Amount to be raised by property taxation, and the property tax rate expressed in dollars per one thousand dollars assessed valuation.

A budget must show comparisons between the estimated expenditures in each program in the following year, the latest estimated expenditures in each program in the current year, and the actual expenditures in each program from the annual report as provided in section 384.22, or as corrected by a subsequent audit report. Wherever practicable, as provided in rules of the committee, a budget must show comparisons between the levels of service provided by each program as estimated for the following year, and actual levels of service provided by each program during the two preceding years.

2. Not less than twenty days before the date that a budget must be certified to the county auditor and not less than ten days before the date set for the hearing, the clerk shall make available a sufficient number of copies of the detailed budget to meet the requests of taxpayers and organizations, and have them available for distribution at the offices of the mayor and clerk and at the city library, if any, or have a copy posted at one of the three places designated by ordinance for posting notices if there is no library.

3. The council shall set a time and place for public hearing on the budget before the final certification date and shall publish notice of the hearing not less than ten nor more than twenty days before the hearing in a newspaper published at least once weekly and having general circulation in the city. However, if the city has a population of two hundred or less, publication may be made by posting in three public places in the city. A summary of the proposed budget shall be included in the notice. Proof of publication must be filed with the county auditor. The department of management shall prescribe the form for the public hearing notice for use by cities.

4. At the hearing, any resident or taxpayer of the city may present to the council objections to any part of the budget for the following fiscal year or arguments in favor of any part of the budget.

5. After the hearing, the council shall adopt by resolution a budget for at least the next fiscal year, and the clerk shall certify the necessary tax levy for the next fiscal year to the county auditor and the county board of supervisors. The tax levy certified may be less than but not more than the amount estimated in the proposed budget submitted at the final hearing, unless an additional tax levy is approved at a city election. Two copies each of the detailed budget as adopted and of the tax certificate must be transmitted to the county auditor, who shall complete the certificates and transmit a copy of each to the department of management.

6. Taxes levied by a city whose budget is certified after March 15 shall be limited to the prior year's budget amount. However, this penalty may be waived by the director of the department of management if the city demonstrates that the March 15 deadline was missed because of circumstances beyond the control of the city.

7. A city that does not submit a budget in compliance with this section shall have all state funds withheld until a budget that is in compliance with this section is filed with the county auditor and subsequently received by the department of management. The department of management shall send notice to state agencies responsible for disbursement of state funds and that notice is sufficient authorization for those funds to be withheld until later notice is given by the department of management to release those funds.

[C24, 27, 31, 35, 39, § 370, 375378, 381, 383; C46, 50, 54, 58, 62, 66, 71, 73, § 24.3, 24.924.12, 24.15, 24.17; C75, 77, 79, 81, § 384.16]

97 Acts, ch 206, § 19, 20, 24; 2005 Acts, ch 179, §62, 63

#### **384.17 Levy by county.**

At the time required by law, the county board of supervisors shall levy the taxes necessary for each city fund for the following fiscal year. The levy must be as shown in the adopted city budget and as certified by the clerk, subject to any changes made after a protest hearing, and any additional tax rates approved at a city election. A city levy is not valid until proof of publication or posting of notice of a budget hearing is filed with the county auditor.

[C24, 27, 31, 35, 39, § 376, 385; C46, 50, 54, 58, 62, 66, 71, 73, § 24.10, 24.19; C75, 77, 79, 81, § 384.17]

#### **384.18 Budget amendment.**

A city budget as finally adopted for the following fiscal year becomes effective July 1 and constitutes the city appropriation for each program and purpose specified therein until amended as provided in this section. A city budget for the current fiscal year may be amended for any of the following purposes:

1. To permit the appropriation and expenditure of unexpended, unencumbered cash balances on hand at the end of the preceding fiscal year which had not been anticipated in the budget.
2. To permit the appropriation and expenditure of amounts anticipated to be available from sources other than property taxation, and which had not been anticipated in the budget.
3. To permit transfers from the debt service fund, the capital improvements reserve fund, the emergency fund, or other funds established by state law, to any other city fund, unless specifically prohibited by state law.
4. To permit transfers between programs within the general fund.

A budget amendment must be prepared and adopted in the same manner as the original budget, as provided in section 384.16, and is subject to protest as provided in section 384.19, except that the committee may by rule provide that amendments of certain types or up to certain amounts may be made without public hearing

and without being subject to protest. A city budget shall be amended by May 31 of the current fiscal year to allow time for a protest hearing to be held and a decision rendered before June 30. The amendment of a budget after May 31, which is properly appealed but without adequate time for hearing and decision before June 30 is void.

[C24, 27, 31, 35, 39, § 375; C46, 50, 54, 58, 62, 66, 71, 73, § 24.9; C75, 77, 79, 81, § 384.18; 82 Acts, ch 1079, § 6]

### **384.19 Written protest.**

Within a period of ten days after the final date that a budget or amended budget may be certified to the county auditor, persons affected by the budget may file a written protest with the county auditor specifying their objections to the budget or any part of it. A protest must be signed by registered voters equal in number to one-fourth of one percent of the votes cast for governor in the last preceding general election in the city, but the number shall not be less than ten persons and the number need not be more than one hundred persons.

Upon the filing of any such protest, the county auditor shall immediately prepare a true and complete copy of the written protest, together with the budget to which the objections are made, and shall transmit the same forthwith to the state appeal board, and shall also send a copy of the protest to the council.

The state appeal board shall proceed to consider the protest in accordance with the same provisions that protests to budgets of municipalities are considered under chapter 24. The state appeal board shall certify its decision with respect to the protest to the county auditor and to the parties to the appeal as provided by rule, and the decision shall be final.

The county auditor shall make up the records in accordance with the decision and the levying board shall make its levy in accordance with the decision. Upon receipt of the decision the council shall correct its records accordingly, if necessary.

[C39, § 390.2, 390.7; C46, 50, 54, § 24.26, 24.31; C58, 62, 66, 71, 73, § 24.27, 24.32; C75, 77, 79, 81, § 384.19; 82 Acts, ch 1079, § 7]

2001 Acts, ch 56, §32

### **384.20 Separate accounts.**

A city shall keep separate accounts corresponding to the programs and items in its adopted or amended budget, as recommended by the committee.

A city shall keep accounts which show an accurate and detailed statement of all public funds collected, received, or expended for any city purpose, by any city officer, employee, or other person, and which show the receipt, use, and disposition of all city property. Public moneys may not be expended or encumbered except under an annual or continuing appropriation.

*"Continuing appropriation"* means the unexpended portion of the cost of public improvements, as defined in section 384.95, which cost was adopted through a public hearing pursuant to section 384.102 and was included in an adopted or amended budget of a city. A continuing appropriation does not expire at the conclusion of a fiscal year. A continuing appropriation continues until the public improvement is completed, but expenditures under the continuing appropriation shall not exceed the resources available for paying for the public improvement.

[S13, § 741-a, 741-b; C24, 27, 31, 35, 39, § 5675, 5676; C46, 50, § 363.49, 363.50; C54, 58, 62, 66, 71, 73, § 368A.5, 368A.6; C75, 77, 79, 81, § 384.20]

### **384.21 Joint investment of funds.**

A city or a city utility board shall keep all funds invested to the extent practicable and may invest the funds jointly with one or more cities, utility boards, judicial district departments of correctional services, counties, or rural water districts created under chapter 357A pursuant to a joint investment agreement. All investments of funds shall be subject to sections 12B.10 and 12B.10A and other applicable law.

87 Acts, ch 105, §2; 88 Acts, ch 1084, §2; 92 Acts, ch 1156, §15; 95 Acts, ch 77, §6

### **384.22 Annual report.**

Not later than December 1 of each year, a city shall publish an annual report as provided in section 362.3 containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the city, and all expenditures, the current public debt of the city, and the legal debt limit of the city for the current fiscal year. The report shall be prepared on forms and pursuant to instructions prescribed by the auditor of state. A copy of this report must be filed with the auditor of state not later than December 1 of each year.

A city that fails to meet the filing deadline imposed by this section shall have withheld from payments to be made to the county which are allocated to the city pursuant to section 425.1 an amount equal to five cents per capita until the annual report is filed with the auditor of state.

[S13, § 741-c, 1056-a7, 1056-a9, 1056-a33; C24, 27, 31, 35, 39, § **5677, 5679, 5680, 6581**; C46, 50, § 363.54, 363.56, 363.57, 416.109; C54, 58, 62, 66, 71, 73, § 368A.9, 368A.11, 368A.12; C75, 77, 79, 81, § 384.22]

97 Acts, ch 206, § 21, 24; 2003 Acts, ch 178, §4

### **384.23 Construction of words "and" and "or."**

As used in divisions III to VI of this chapter, the use of the conjunctive "*and*" includes the disjunctive "*or*" and the use of the disjunctive "*or*" includes the conjunctive "*and*," unless the context clearly indicates otherwise.

[C75, 77, 79, 81, § 384.23]

### **384.24 Definitions.**

As used in this division, unless the context otherwise requires:

1. "*General obligation bond*" means a negotiable bond issued by a city and payable from the levy of unlimited ad valorem taxes on all the taxable property within the city through its debt service fund which is required to be established by section 384.4.
2. "*City enterprise*" means any of the following, including the real estate, fixtures, equipment, accessories, appurtenances, and all property necessary or useful for the operation of any of the following:
  - a. Parking facilities systems, which may include parking lots and other off-street parking areas, parking ramps and structures on, above, or below the surface, parking meters, both on-street and off-street, and all other fixtures, equipment, accessories, appurtenances, and requisites useful for the successful operation of a parking facilities system.

b. Civic centers or civic center systems, which may include auditoriums, music halls, theatres, sports arenas, armories, exhibit halls, meeting rooms, convention halls, or combinations of these.

c. Recreational facilities or recreational facilities systems, including, without limitation, real and personal property, water, buildings, improvements, and equipment useful and suitable for administering recreation programs, and also including without limitation, zoos, museums, and centers for art, drama, and music, as well as those programs more customarily identified with the term "recreation" such as public sports, games, pastimes, diversions, and amusement, on land or water, whether or not such facilities are located in or as a part of any public park.

d. Port facilities or port facilities systems, including without limitation, real and personal property, water, buildings, improvements and equipment useful and suitable for taking care of the needs of commerce and shipping, and also including without limitation, wharves, docks, basins, piers, quay walls, warehouses, tunnels, belt railway facilities, cranes, dock apparatus, and other machinery necessary for the convenient and economical accommodation and handling of watercraft of all kinds and of freight and passengers.

e. Airport and airport systems.

f. Solid waste collection systems and disposal systems.

g. Bridge and bridge systems.

h. Hospital and hospital systems.

i. Transit systems.

j. Stadiums.

k. Housing for persons who are elderly or persons with physical disabilities.

l. Child care centers providing child care or preschool services, or both. For purposes of this paragraph, "child care" means providing for the care, supervision, and guidance of a child by a person other than the parent, guardian, relative, or custodian for periods of less than twenty-four hours per day on a regular basis. For purposes of this paragraph, "preschool" means child care which provides to children ages three through five, for periods of time not exceeding three hours per day, programs designed to help the children to develop intellectual skills, and motor skills, and to extend their interest and understanding of the world about them.

3. "Essential corporate purpose" means:

a. The opening, widening, extending, grading, and draining of the right-of-way of streets, highways, avenues, alleys, public grounds, and market places, and the removal and replacement of dead or diseased trees thereon; the construction, reconstruction, and repairing of any street improvements; the acquisition, installation, and repair of traffic control devices; and the acquisition of real estate needed for any of the foregoing purposes.

b. The acquisition, construction, improvement, and installation of street lighting fixtures, connections, and facilities.

c. The construction, reconstruction, and repair of sidewalks and pedestrian underpasses and overpasses, and the acquisition of real estate needed for such purposes.

d. The acquisition, construction, reconstruction, extension, improvement, and equipping of works and facilities useful for the collection, treatment, and disposal of sewage and industrial waste in a sanitary manner, for the collection and disposal of solid waste, and for the collection and disposal of surface waters

and streams.

*e.* The acquisition, construction, reconstruction, enlargement, improvement, and repair of bridges, culverts, retaining walls, viaducts, underpasses, grade crossing separations, and approaches thereto.

*f.* The settlement, adjustment, renewing, or extension of any part or all of the legal indebtedness of a city, whether evidenced by bonds, warrants, or judgments, or the funding or refunding of the same, whether or not such indebtedness was created for a purpose for which general obligation bonds might have been issued in the original instance.

*g.* The undertaking of any project jointly or in co-operation with any other governmental body which, if undertaken by the city alone, would be for an essential corporate purpose, including the joint purchase, acquisition, construction, ownership, or control of any real or personal property.

*h.* The acquisition, construction, reconstruction, improvement, and extension of works and facilities useful for the control and elimination of any and all sources of air, water, and noise pollution, and the acquisition of real estate needed for such purposes.

*i.* The acquisition, construction, reconstruction, and improvement of all waterways, and real and personal property, useful for the protection or reclamation of property situated within the corporate limits of cities from floods or high waters, and for the protection of property in cities from the effects of flood waters, including the deepening, widening, alteration, change, diversion, or other improvement of watercourses, within or without the city limits, the construction of levees, embankments, structures, impounding reservoirs, or conduits, and the establishment, improvement, and widening of streets, avenues, boulevards, and alleys across and adjacent to the project, as well as the development and beautification of the banks and other areas adjacent to flood control improvements.

*j.* The equipping of fire, police, sanitation, street, and civil defense departments and the acquiring, developing, and improving of a geographic computer data base system suitable for automated mapping and facilities management.

*k.* The acquisition and improvement of real estate for cemeteries, and the construction, reconstruction, and repair of receiving vaults, mausoleums, and other cemetery facilities.

*l.* The acquisition of ambulances and ambulance equipment.

*m.* The reconstruction and improvement of dams already owned.

*n.* The reconstruction, extension, and improvement of an airport owned or operated by the city, an agency of the city, or a multimember governmental body of which the city is a participating member.

*o.* The rehabilitation and improvement of parks already owned, including the removal, replacement and planting of trees in the parks, and facilities, equipment, and improvements commonly found in city parks.

*p.* The rehabilitation and improvement of area television translator systems already owned.

*q.* The aiding in the planning, undertaking, and carrying out of urban renewal projects under the authority of chapter 403, and all of the purposes set out in section 403.12. However, bonds issued for this purpose are subject to the right of petition for an election as provided in section 384.26, without limitation on the amount of the bond issue or the size of the city, and the council shall include notice of the right of petition in the notice required under section 384.25, subsection 2.

*r.* The acquisition, construction, reconstruction, improvement, repair, and equipping of waterworks, water

mains, and extensions, and real and personal property, useful for providing potable water to residents of a city.

s. The provision of insurance, or funding a self-insurance program or local government risk pool, including but not limited to the investigation and defense of claims, the establishment of reserve funds for claims, the payment of claims, and the administration and management of such self-insurance program or local government risk pool.

t. The acquisition, restoration, or demolition of abandoned, dilapidated, or dangerous buildings, structures or properties or the abatement of a nuisance.

u. The establishment or funding of programs to provide for or assist in providing for the acquisition, restoration, or demolition of housing, as part of a municipal housing project under chapter 403 or otherwise, or for other purposes as may be authorized under chapter 403A.

4. "*General corporate purpose*" means:

a. The acquisition, construction, reconstruction, extension, improvement, and equipping of city utilities, city enterprises, and public improvements as defined in section 384.37, other than those which are essential corporate purposes.

b. The acquisition, construction, reconstruction, enlargement, improvement, and equipping of community center houses, recreation grounds, recreation buildings, juvenile playgrounds, swimming pools, recreation centers, parks, and golf courses, and the acquisition of real estate therefor.

c. The acquisition, construction, reconstruction, enlargement, improvement, and equipping of city halls, jails, police stations, fire stations, garages, libraries, and hospitals, including buildings to be used for any combination of the foregoing purposes, and the acquisition of real estate therefor.

d. The acquisition, construction, reconstruction, and improvement of dams at the time of acquisition.

e. The removal, replacement, and planting of trees, other than those on public right-of-way.

f. The acquisition, purchase, construction, reconstruction, and improvement of greenhouses, conservatories, and horticultural centers for growing, storing, and displaying trees, shrubs, plants, and flowers.

g. The acquisition, construction, reconstruction, and improvement of airports at the time of establishment.

h. The undertaking of any project jointly or in co-operation with any other governmental body which, if undertaken by the city alone, would be for a general corporate purpose, including the joint purchase, acquisition, construction, ownership, or control of any real or personal property.

i. Any other purpose which is necessary for the operation of the city or the health and welfare of its citizens.

5. The "*cost*" of a project for an essential corporate purpose or general corporate purpose includes construction contracts and the cost of engineering, architectural, technical, and legal services, preliminary reports, property valuations, estimates, plans, specifications, notices, acquisition of real and personal property, consequential damages or costs, easements, rights-of-way, supervision, inspection, testing, publications, printing and sale of bonds, interest during the period or estimated period of construction and for twelve months thereafter or for twelve months after the acquisition date, and provisions for contingencies.

1. [C75, 77, 79, 81, § 384.24(1)]

2. a. [C46, § 390.1; C50, 54, 58, 62, 66, 71, 73, § 390.1, 390.7; C75, 77, 79, 81, § 384.24(2, a)]
- b. [C35, § 5903-f1; C39, § **5903.12**; C46, 50, 54, 58, 62, 66, § 385.1; C71, 73, § 378A.1, 385.1; C75, 77, 79, 81, § 384.24(2, b)]
- c. [R60, § 1111; C73, § 538; C97, § 957; C24, 27, 31, 35, 39, § **6742**; C46, 50, § 368.9, 420.53; C54, 58, 62, 66, 71, 73, § 368.30; C75, 77, 79, 81, § 384.24(2, c)]
- d. [S13, § 741-w2; C24, 27, 31, § 5902; C35, § 5902, 6066-f2; C39, § **5902, 6066.25**; C46, 50, 54, 58, 62, 66, 71, 73, § 384.3, 394.2; C75, 77, 79, 81, § 384.24(2, d)]
- e. [C31, 35, § 5903-c2; C39, § **5903.02**; C46, 50, 54, 58, 62, 66, 71, 73, § 330.2; C75, 77, 79, 81, § 384.24(2, e)]
- f. [S13, § 1056-a61; SS15, § 696-b; C24, 27, 31, § 5746, 6592; C35, § 5746, 6066-f1, 6066-f5, 6592; C39, § **5746, 6066.24, 6066.28, 6592**; C46, 50, § 368.9, 394.1, 394.5, 416.120; C54, 58, 62, 66, 71, 73, § 368.24, 394.1, 394.5; C75, 77, 79, 81, § 384.24(2, f)]
- g. [C31, 35, § 5899-c1; C39, § **5899.01**; C46, 50, 54, 58, 62, 66, 71, 73, § 383.1; C75, 77, 79, 81, § 384.24(2, g)]
- h. [C75, 77, 79, 81, § 384.24(2, h)]
- i. [C58, 62, 66, 71, 73, § 386B.2; C75, 77, 79, 81, § 384.24(2, i)]
- j. [C75, 77, 79, 81, § 384.24(2, j)]
- k. [C75, 77, 79, 81, § 384.24(2, k)]
3. a. [R60, § 1064, 1097; C73, § 464, 465, 527; C97, § 751, 782; S13, § 1056-a65; SS15, § 751, 997-a, -c; C24, 27, 31, 35, 39, § **5938, 5951, 6608, 6744, 6746**; C46, 50, § 389.1, 389.20, 416.138, 420.55, 420.57; C54, 58, 62, 66, 71, 73, § 368.32, 389.1, 389.20, 408.17; C75, 77, 79, 81, § 384.24(3, a)]
- b. [R60, § 1064; C73, § 464; C97, § 756; C24, 27, 31, 35, 39, § **5949**; C46, 50, 54, 58, 62, 66, 71, 73, § 389.16; C75, 77, 79, 81, § 384.24(3, b)]
- c. [C73, § 466; C97, § 779; S13, § 779; C24, 27, 31, 35, 39, § **5962**; C46, 50, 54, 58, § 389.31; C62, 66, 71, 73, § 389.31, 391.1; C75, 77, 79, 81, § 384.24(3, c)]
- d. [S13, § 1056-a63; C24, 27, 31, 35, 39, § **6125, 6594**; C46, 50, § 396.22, 416.122; C54, 58, § 396.22, 404.18; C62, 66, 71, 73, § 396.22, 404.19; C75, 77, 79, 81, § 384.24(3, d)]
- e. [R60, § 1097; C73, § 527; C97, § 757, 758; SS15, § 758; C24, 27, 31, 35, 39, § **58745876**; C46, 50, § 381.1381.3; C54, 58, 62, 66, § 381.1; C71, 73, § 381.1, 381.3; C75, 77, 79, 81, § 384.24(3, e)]
- f. [C97, § 905; C24, 27, 31, 35, 39, § **6252**; C46, 50, 54, 58, 62, 66, 71, 73, § 408.1; C75, 77, 79, 81, § 384.24(3, f)]
- g. [C27, 31, 35, § 6066-a1; C39, § **6066.03**; C46, 50, 54, § 392.1; C58, 62, 66, 71, 73, § 368.49, 392.1; C75, 77, 79, 81, § 384.24(3, g)]
- h. [C75, 77, 79, 81, § 384.24(3, h)]

- i. [SS15, § 849-a; C24, 27, 31, 35, 39, § **6080**; C46, 50, 54, 58, 62, 66, 71, 73, § 395.1; C75, 77, 79, 81, § 384.24(3, i)]
- j. [C54, 58, 62, 66, 71, 73, § 368.16; C75, 77, 79, 81, § 384.24(3, j)]
- k. [R60, § 1060; C73, § 458; C97, § 697; C24, 27, 31, 35, 39, § **5750**; C46, 50, § 368.13; C54, 58, 62, 66, 71, 73, § 368.29; C75, 77, 79, 81, § 384.24(3, k)]
- l. [C66, 71, 73, § 368.74; C75, 77, 79, 81, § 384.24(3, l)]
- m.p. [C77, 79, 81, § 384.24(3, mp)]
- q. [C75, § 384.24(4, g); C77, 79, 81, § 384.24(3, q)]
- r. [82 Acts, ch 1089, § 1]
- 4.** a. [S13, § 741-w2, 1306-b; C24, 27, 31, 35, 39, § **5902, 6239**; C46, 50, § 384.3, 407.3(1); C54, 58, 62, 66, 71, 73, § 384.3, 390.13, 407.3(1); C75, 77, 79, 81, § 384.24(4, a)]
- b. [R60, § 1111; C73, § 538; C97, § 852, 957; S13, § 850-c; SS15, § 879-r; C24, 27, 31, 35, 39, § **5793, 5830, 5844, 6239, 6742**; C46, 50, § 368.9, 370.7, 374.1, 377.1, 407.3(2, 3), 420.53; C54, 58, 62, 66, 71, 73, § 368.30, 370.7, 374.1, 377.1, 407.3(2, 3); C75, 77, 79, 81, § 384.24(4, b)]
- c. [R60, § 1116; C73, § 542; C97, § 732, 735; S13, § 668, 732, 741-r; SS15, § 741-f; C24, 27, § 5772, 6239; C31, § 5772, 6239, 6600-c1; C35, § 5772, 6239, 6579-f; C39, § **5772, 6239, 6579.1**; C46, 50, § 368.40, 407.3(46), 416.107; C54, 58, 62, 66, § 368.15, 368.41, 407.3(46); C71, 73, § 368.15, 368.41, 407.3(46, 9); C75, 77, 79, 81, § 384.24(4, c)]
- d. [C27, 31, 35, 39, § **6239**; C46, 50, 54, 58, 62, 66, 71, 73, § 407.3(7); C75, 77, 79, 81, § 384.24(4, d)]
- e. [S13, § 1056-a65; SS15, § 997-a, -c; C24, 27, 31, 35, 39, § **6608, 6744, 6746**; C46, 50, § 416.138, 420.55, 420.57; C54, 58, 62, 66, 71, 73, § 368.32; C75, 77, 79, 81, § 384.24(4, e)]
- f. [C75, 77, 79, 81, § 384.24(4, f)]
- g. [C77, 79, 81, § 384.24(4, g)]
- h. [C31, 35, § 5766-c1; C39, § **5766.2**; C46, § 368.31; C50, § 368.31, 368.57, 392.1; C54, 58, 62, 66, 71, 73, § 368.12, 368.19, 392.1; C75, 77, 79, 81, § 384.24(4, h)]
- i. [C75, 77, 79, 81, § 384.24(4, i)]
- 5.** [C75, 77, 79, 81, § 384.24(5)]

83 Acts, ch 90, § 21; 86 Acts, ch 1211, § 24; 87 Acts, ch 103, §68; 89 Acts, ch 182, §10; 89 Acts, ch 189, §3; 96 Acts, ch 1129, § 86; 96 Acts, ch 1204, § 36; 2001 Acts, ch 88, §1, 2

### **384.24A Loan agreements.**

A city may enter into loan agreements to borrow money for any public purpose in accordance with the following terms and procedures:

1. A loan agreement entered into by a city may contain provisions similar to those sometimes found in loan

agreements between private parties, including, but not limited to, the issuance of notes to evidence its obligations.

2. A provision of a loan agreement which stipulates that a portion of the payments be applied as interest is subject to chapter 74A. Other laws relating to interest rates do not apply. Chapter 75 is not applicable. A city utility or city enterprise is a separate entity under this section whether it is governed by the governing body of the city or another governing body.

3. The governing body shall follow substantially the same authorization procedure required for the issuance of general obligation bonds issued for the same purpose to authorize a loan agreement made payable from the debt service fund.

4. The governing body may authorize a loan agreement which is payable from the general fund and which would not cause the total of scheduled annual payments of principal or interest or both principal and interest of the city due from the general fund of the city in any future year with respect to all loan agreements in force on the date of the authorization to exceed ten percent of the last certified general fund budget amount in accordance with the following procedures:

*a.* The governing body must follow substantially the authorization procedures of section 384.25 to authorize a loan agreement for personal property which is payable from the general fund. The governing body must follow substantially the authorization procedures of section 384.25 to authorize a loan agreement for real property which is payable from the general fund if the principal amount of the loan agreement does not exceed the following limits:

(1) Four hundred thousand dollars in a city having a population of five thousand or less.

(2) Seven hundred thousand dollars in a city having a population of more than five thousand but not more than seventy-five thousand.

(3) One million dollars in a city having a population of more than seventy-five thousand.

*b.* The governing body must follow the following procedures to authorize a loan agreement for real property which is payable from the general fund if the principal amount of the loan agreement exceeds the limits set forth in paragraph "a":

(1) The governing body must institute proceedings to enter into a loan agreement payable from the general fund by causing a notice of the meeting to discuss entering into the loan agreement, including a statement of the principal amount and purpose of the loan agreement and the right to petition for an election, to be published at least once in a newspaper of general circulation within the city at least ten days prior to the discussion meeting. No sooner than thirty days following the discussion meeting shall the governing body hold a meeting at which it is proposed to take action to enter into the loan agreement.

(2) If at any time before the end of the thirty-day period after which a meeting may be held to take action to enter into the loan agreement, a petition is filed with the clerk of the city in the manner provided by section 362.4, asking that the question of entering into the loan agreement be submitted to the registered voters of the city, the governing body shall either by resolution declare the proposal to enter into the loan agreement to have been abandoned or shall direct the county commissioner of elections to call a special election upon the question of entering into the loan agreement. However, for purposes of this paragraph, the petition shall not require signatures in excess of one thousand persons. The question to be placed on the ballot shall be stated affirmatively in substantially the following manner: Shall the city of ..... enter into a loan agreement in amount of \$..... for the purpose of .....? Notice of the election and its conduct shall be in the manner provided in section 384.26, subsections 2 through 4.

(3) If a petition is not filed or if a petition is filed and the proposition of entering into the loan agreement is approved at an election, the governing body may proceed and enter into the loan agreement.

5. The governing body may authorize a loan agreement payable from the net revenues of a city utility, combined utility system, city enterprise, or combined city enterprise by following the authorization procedures of section 384.83.

6. A loan agreement to which a city is a party or in which the city has a participatory interest is an obligation of a political subdivision of this state for the purposes of chapters 502 and 636, and is a lawful investment for banks, trust companies, building and loan associations, savings and loan associations, investment companies, insurance companies, insurance associations, executors, guardians, trustees, and any other fiduciaries responsible for the investment of funds.

87 Acts, ch 103, §9; 92 Acts, ch 1138, §5; 95 Acts, ch 67, §53

### **384.25 General obligation bonds for essential purposes.**

1. A city which proposes to carry out any essential corporate purpose within or without its corporate limits, and to contract indebtedness and issue general obligation bonds to provide funds to pay all or any part of the cost of a project must do so in accordance with the provisions of this division.

2. Before the council may institute proceedings for the issuance of bonds for an essential corporate purpose, a notice of the proposed action, including a statement of the amount and purposes of the bonds, and the time and place of the meeting at which the council proposes to take action for the issuance of the bonds, must be published as provided in section 362.3. At the meeting, the council shall receive oral or written objections from any resident or property owner of the city. After all objections have been received and considered, the council may, at that meeting or any adjournment thereof, take additional action for the issuance of the bonds or abandon the proposal to issue the bonds. Any resident or property owner of the city may appeal the decision of the council to take additional action to the district court of the county in which any part of the city is located, within fifteen days after the additional action is taken, but the additional action of the council is final and conclusive unless the court finds that the council exceeded its authority. The provisions of this subsection with respect to notice, hearing, and appeal, are in lieu of the provisions contained in chapter 73A, or any other law.

[R60, § 1060; C73, § 458; C97, § 697; S13, § 716-d, 840-e, 849-h, -j, 912, 912-a, 1056-a43, -a63, -a64; SS15, § 758-b, -e, 840-g, -p, 997-a, -c; C24, § 5750, 58785881, 6103, 6126, 62616263, 6265, 6576, 6594, 6595, 6608, 6744, 6746; C27, 31, 35, § 5750, 58785881, 6066-a11, 6103, 6126, 62616263, 6265, 6594, 6595, 6608, 6744, 6746; C39, § 5750, 58785881, 6066.13, 6103, 6126, 6261, 6261.1, 6261.2, 6262, 6263, 6265, 6576, 6594, 6595, 6608, 6744, 6746; C46, 50, § 368.13, 381.5381.8, 392.11, 395.25, 396.22, 408.10408.14, 408.16, 416.101, 416.104, 416.122, 416.123, 416.138, 420.55, 420.57; C54, 58, § 368.16, 368.29, 368.32, 381.7, 392.11, 395.25, 396.22, 404.18, 408.17; C62, 66, 71, 73, § 368.16, 368.29, 368.32, 381.7, 392.11, 395.25, 396.22, 404.19, 408.17; C75, 77, 79, 81, § 384.25]

### **384.26 General obligation bonds for general purposes.**

1. A city which proposes to carry out any general corporate purpose within or without its corporate limits, and to contract indebtedness and issue general obligation bonds to provide funds to pay all or any part of the costs of a project, must do so in accordance with the provisions of this division.

2. Before the council may institute proceedings for the issuance of bonds for a general corporate purpose, it shall call a special city election to vote upon the question of issuing the bonds. At the election the proposition must be submitted in the following form:

Shall the ..... (insert the name of the city) issue its bonds in an amount not exceeding the amount of \$..... for the purpose of .....?

3. Notice of the election must be given by publication as required by section 49.53 in a newspaper of general circulation in the city. At the election the ballot used for the submission of the proposition must be in substantially the form for submitting special questions at general elections.

4. The proposition of issuing general corporate purpose bonds is not carried or adopted unless the vote in favor of the proposition is equal to at least sixty percent of the total vote cast for and against the proposition at the election. If the proposition of issuing the general corporate purpose bonds is approved by the voters, the city may proceed with the issuance of the bonds.

5. *a.* Notwithstanding the provisions of subsection 2, a council may, in lieu of calling an election, institute proceedings for the issuance of bonds for a general corporate purpose by causing a notice of the proposal to issue the bonds, including a statement of the amount and purpose of the bonds, together with the maximum rate of interest which the bonds are to bear, and the right to petition for an election, to be published at least once in a newspaper of general circulation within the city at least ten days prior to the meeting at which it is proposed to take action for the issuance of the bonds subject to the following limitations:

(1) In cities having a population of five thousand or less, in an amount of not more than four hundred thousand dollars.

(2) In cities having a population of more than five thousand and not more than seventy-five thousand, in an amount of not more than seven hundred thousand dollars.

(3) In cities having a population in excess of seventy- five thousand, in an amount of not more than one million dollars.

*b.* If at any time before the date fixed for taking action for the issuance of the bonds, a petition is filed with the clerk of the city in the manner provided by section 362.4, asking that the question of issuing the bonds be submitted to the registered voters of the city, the council shall either by resolution declare the proposal to issue the bonds to have been abandoned or shall direct the county commissioner of elections to call a special election upon the question of issuing the bonds. Notice of the election and its conduct shall be in the manner provided in the preceding subsections of this section.

*c.* If no petition is filed, or if a petition is filed and the proposition of issuing the bonds is approved at an election, the council may proceed with the authorization and issuance of the bonds.

[C73, § 461; C97, § 727, 741-4, 852855; S13, § 727, 741-q, -r, -v, -w2, 850-c, -e, -f, 1306-d, -e; SS15, § 696-b, 741-f, -g, -h, 879-r, -s; C24, 27, § 57935795, 58005804, 5902, 6241, 62446246, 6248; C31, 35, § 57935795, 58005804, 5902, 5903-c5, 6241, 62446246, 6248; C39, § **57935795, 58005804, 5902, 5903.05, 6241, 62446246, 6248, 6261.1**; C46, 50, § 330.7, 330.8, 370.7370.9, 370.15370.19, 384.3, 407.5, 407.8407.10, 407.12, 408.11; C54, 58, 62, 66, § 330.7, 370.7, 384.3, 390.13, 407.5, 407.8407.10, 407.12; C71, 73, § 330.7, 370.7, 378A.11, 384.3, 390.13, 407.5, 407.8407.10, 407.12, 408A.1, 408A.2, 408A.6; C75, 77, 79, 81, § 384.26]

92 Acts, ch 1138, §6; 95 Acts, ch 67, §53

### **384.27 Sale of bonds.**

1. A city may sell general obligation bonds at public or private sale in the manner prescribed by chapter 75.

2. General obligation funding or refunding bonds issued for the purposes specified in section 384.24,

subsection 3, paragraph "f," may be exchanged for the evidences of the legal indebtedness being funded or refunded, or such funding or refunding bonds may be sold in the manner prescribed by chapter 75 and the proceeds applied to the payment of such indebtedness. Funding or refunding bonds may bear interest at the same rate as, or at a higher or lower rate or rates of interest than the indebtedness being funded or refunded.

[C97, § 910; C24, 27, 31, 35, 39, § 6258, 6259; C46, 50, 54, 58, 62, 66, § 408.7, 408.8; C71, 73, § 378A.11, 408.7, 408.8; C75, 77, 79, 81, § 384.27]

### **384.28 Categories for general obligation bonds.**

A city may issue general obligation bonds pursuant to a resolution adopted at a regular or special meeting by a majority of the total number of members to which the council is entitled. Each paragraph of section 384.24, subsections 3 and 4 describes a separate category. Separate categories of essential corporate purposes and of general corporate purposes may be incorporated in a single notice of intention to institute proceedings for the issuance of bonds, or separate categories may be incorporated in separate notices, and after an opportunity has been provided for filing objections, or after a favorable election has been held, if required, the council may include in a single resolution and sell as a single issue of bonds, any number or combination of essential corporate purposes or general corporate purposes. If an essential corporate purpose is combined with a general corporate purpose in a single notice of intention to institute proceedings to issue bonds, then the entire issue is subject to the referendum requirement provided in section 384.26.

Definitions of city enterprises, essential corporate purposes, and general corporate purposes are not mutually exclusive and shall be liberally construed. The detailing of examples is not intended to modify or restrict the meaning of general words used. If a project or activity may be reasonably construed to be included in more than one classification, the council may elect at any time between the classifications and the procedures respectively applicable to each classification.

[C75, 77, 79, 81, § 384.28]

83 Acts, ch 90, § 22

### **384.29 Form of bonds.**

As provided by resolution of the council, general obligation bonds may:

1. Bear dates.
2. Bear interest at rates not exceeding the limitations imposed by chapter 75.
3. Mature in one or more installments.
4. Be in either coupon or registered form.
5. Carry registration and conversion privileges.
6. Be payable as to principal and interest at times and places.
7. Be subject to terms of redemption prior to maturity with or without premium.
8. Be in one or more denominations.
9. Be designated with a brief reference to purpose, or if issued for a combination of purposes, be designated "corporate purpose bond".

10. Contain other provisions not in conflict with the laws of the state of Iowa.

[C97, § 908; C24, 27, 31, 35, 39, § **6255**; C46, 50, 54, 58, 62, 66, 71, 73, § 408.4; C75, 77, 79, 81, § 384.29]

### **384.30 Execution.**

General obligation bonds must be executed by the mayor and city clerk. If coupons are attached to the bonds, they must be executed with the original or facsimile signature of the clerk. A general obligation bond is valid and binding if it bears the signatures of the officers in office on the date of the execution of the bonds, notwithstanding that any or all such persons whose signatures appear thereon have ceased to be such officers prior to the delivery thereof.

[C97, § 907; C24, 27, 31, 35, 39, § **6254**; C46, 50, 54, 58, 62, 66, 71, 73, § 408.3; C75, 77, 79, 81, § 384.30]

### **384.31 Negotiable.**

General obligation bonds issued pursuant to this part are negotiable instruments.

[C75, 77, 79, 81, § 384.31]

### **384.32 Tax to pay.**

Taxes for the payment of general obligation bonds must be levied in accordance with chapter 76, and the bonds are payable from the levy of unlimited ad valorem taxes on all the taxable property within the city through its debt service fund authorized by section 384.4.

[C97, § 852855, 912; S13, § 741-w2, 758-b, 849-j, 850-c, -e, -f, 912-a, 1056-a43, -a63, -a64, -a65; SS15, § 840-g, -p, 997-c; C24, 27, 31, § 57935795, 58005804, 58785881, 5902, 6103, 62616263, 6265, 6594, 6595, 6608, 6746; C35, § 57935795, 58005804, 58785881, 5902, 6103, 62616263, 6265, 6578-b1, 6594, 6595, 6608, 6746; C39, § **57935795, 58005804, 58785881, 5902, 6103, 62616263, 6265, 6578.1, 6594, 6595, 6608, 6746**; C46, 50, § 370.7370.9, 370.15370.19, 381.5381.8, 384.3, 395.25, 408.10408.14, 408.16, 416.104, 416.122, 416.123, 416.138, 420.57; C54, 58, § 368.16, 368.29, 368.32, 370.7, 381.7, 384.3, 390.14, 395.25, 404.18, 408.17; C62, 66, § 368.16, 368.29, 368.32, 370.7, 381.7, 384.3, 390.13, 395.25, 404.19, 408.17; C71, 73, § 368.16, 368.29, 368.32, 370.7, 378A.11, 381.7, 384.3, 390.13, 395.25, 404.19, 408.17; C75, 77, 79, 81, § 384.32]

### **384.33 Action.**

No action may be brought which questions the legality of general obligation bonds or the power of the city to issue the bonds or the effectiveness of any proceedings relating to the authorization and issuance of the bonds from and after sixty days from the time the bonds are ordered issued by the city.

[C71, 73, § 378A.13; C75, 77, 79, 81, § 384.33]

### **384.34 Local budget law.**

The provisions of division II of this chapter do not apply to any bonds issued pursuant to this division.

[C75, 77, 79, 81, § 384.34]

### **384.35 Rule of construction.**

The enumeration in this division of specified powers and functions is not a limitation of the powers of cities,

but the provisions of this division and the procedures prescribed for exercising the powers and functions enumerated in this division shall control and govern in the event of any conflict with the provisions of any other section, division or chapter of the city code or with the provisions of any other law.

[C75, 77, 79, 81, § 384.35]

### **384.36 Prior proceedings.**

Projects and proceedings for the issuance of general obligation bonds commenced before the effective date of the city code may be consummated and completed as required or permitted by any statute or other law amended or repealed by the city code as though the repeal or amendment had not occurred, and the rights, duties, and interests flowing from such projects and proceedings remain valid and enforceable. Without limiting the foregoing, projects commenced prior to the effective date may be financed by the issuance of general obligation bonds under any such amended or repealed law or by the issuance of general obligation bonds under the city code. For the purposes of this section, commencement of a project includes but is not limited to action taken by the council or authorized officer to fix a date for a hearing in connection with any part of the project, and commencement of proceedings for the issuance of general obligation bonds includes but is not limited to action taken by the council to fix a date for either a hearing or a sale in connection with any part of the general obligation bonds, or to order any part thereof to be issued.

[C75, 77, 79, 81, § 384.36]

### **384.37 Definitions.**

As used in this division, unless the context otherwise requires:

1. "*Abutting lot*" means a lot which abuts or joins the street in which the public improvement is located or which abuts the right of way of the public improvement.
2. "*Adjacent lot*" means a lot within the district which does not abut upon the street or right of way of the public improvement.
3. "*Construction*" includes materials, labor, acts, operations and services necessary to complete a public improvement.
4. "*District*" means the lots or parts of lots within boundaries established by the council for the purpose of the assessment of the cost of a public improvement.
5. "*Engineer*" means a professional engineer, registered in the state of Iowa, authorized by the council to render services in connection with the public improvement.
6. "*Final grade*" means the grade to which the public improvement is proposed to be constructed or repaired as shown on the final plans adopted by the council.
7. "*Grade*" means the longitudinal reference lines, as established by ordinance of the council, which designate the elevations at which a street or sidewalk is to be built.
8. "*Gravel*" includes gravel, crushed rock, cinders, shale and similar materials suitable for street construction or repair.
9. "*Lateral sewer*" means a sewer which contributes sewage, or surface or ground water from a local area to a main sewer or outlet.

10. *"Lot"* means a parcel of land under one ownership, including improvements, against which a separate assessment is made. Two or more contiguous parcels under common ownership may be treated as one lot for purposes of this division if the parcels bear common improvements or if the council finds that the parcels have been assembled into a single unit for the purpose of use or development.

11. *"Main sewer"* means a sewer which serves as an outlet for two or more lateral sewers, and which is commonly referred to as an intercepting sewer, outfall sewer or trunk sewer.

12. *"Oil"* means any asphaltic or bituminous material suitable for street construction or repair.

13. *"Parking facilities"* means parking lots or other off-street areas for the parking of vehicles, including areas below or above the surface of streets.

14. *"Paving"* means any kind of hard street surface, including, but not limited to, concrete, bituminous concrete, brick, stabilized gravel, or combinations of these, together with or without curb and gutter.

15. *"Private property"* means all property within the district except streets.

16. *"Property owner"* or *"owner"* means the owner or owners of property, as shown by the transfer books in the office of the county auditor of the county in which the property is located.

17. *"Proposal"* means a legal bid on work advertised for a public improvement under division VI of this chapter.

18. *"Publication"* means public notice given in the manner provided in section 362.3.

19. *"Public improvement"* includes the principal structures, works, component parts and accessories of any of the following:

a. Sanitary, storm and combined sewers.

b. Drainage conduits, channels and levees.

c. Street grading, paving, graveling, macadamizing, curbing, guttering, and surfacing with oil, oil and gravel or chloride.

d. Street lighting fixtures, connections and facilities.

e. Sewage pumping stations, and disposal and treatment plants.

f. Underground gas, water, heating, sewer and electrical connections located in streets for private property.

g. Sidewalks and pedestrian underpasses or overpasses.

h. Drives and driveway approaches located within the public right of way.

i. Waterworks, water mains and extensions.

j. Plazas, arcades and malls.

k. Parking facilities.

l. Removal of diseased or dead trees from any public place, publicly owned right of way or private property.

m. Traffic-control devices, fixtures, connections, and facilities.

20. "*Railways*" means all railways except street railways.

21. "*Repair*" includes materials, labor, acts, operations and services necessary for the repair, reconstruction, reconstruction by widening or resurfacing of a public improvement.

22. "*Sewer*" means structures designed, constructed and used for the purpose of controlling or carrying off streams, surface waters, waste or sanitary sewage.

23. "*Sewer systems*" are composed of the main sewers, sewage pumping stations, treatment and disposal plants, lateral sewers, drainage conduits or channels and sewer connections in public streets for private property.

24. "*Street*" means a public street, highway, boulevard, avenue, alley, parkway, public place, plaza, mall or publicly owned right of way or easement within the limits of the city.

25. "*Street improvement*" means the construction or repair of a street by grading, paving, curbing, guttering, and surfacing with oil, oil and gravel, or chloride, and street lighting fixtures, connections and facilities.

26. "*Total cost*" or "*cost*" of a public improvement includes the cost of engineering, preliminary reports, property valuations, estimates, plans, specifications, notices, legal services, acquisition of land, consequential damages or costs, easements, rights of way, construction, repair, supervision, inspection, testing, notices and publication, interest during construction and for not more than six months thereafter, and printing and sale of bonds.

[R60, § 1064, 1097; C73, § 464466, 527; C97, § 751, 779, 792; S13, § 779, 792, 792-f, 840-c, -d; SS15, § 751, 840-h, -r; C24, 27, § 5938, 5962, 5974, 5975, 5987; C31, 35, § 5938, 5962, 5974, 5975, 5987, 6610-c8; C39, § 5938, 5962, 5974, 5975, 5987, 6610.04; C46, § 389.1, 389.31, 391.1, 391.2, 391.14, 417.8; C50, 54, 58, 62, § 389.1, 389.31, 391.1, 391.2, 391.14, 391A.1, 417.8; C66, 71, 73, § 389.1, 389.31, 390A.39, 391.1, 391.2, 391.14, 391A.1, 417.8; C75, 77, 79, 81, § 384.37]

83 Acts, ch 90, § 23; 92 Acts, ch 1176, § 1

### **384.38 Certain costs assessed to private property.**

1. A city may assess to private property within the city the cost of construction and repair of public improvements within the city, and main sewers, sewage pumping stations, disposal and treatment plants, waterworks, water mains, extensions, and drainage conduits extending outside the city.

2. Upon petition as provided in section 384.41, subsection 1, a city may assess to private property affected by public improvements within three miles of the city's boundaries the cost of construction and repair of public improvements within that area. The right-of-way of a railway company shall not be assessed unless the company joins as a petitioner for said improvements. In the petition the property owners shall waive the limitation provided in section 384.62 that an assessment shall not exceed twenty-five percent of the value of the lot. The petition shall contain a statement that the owners agree to pay the city an amount equal to five percent of the cost of the improvements, to cover administrative expenses incurred by the city. This amount may be added to the cost of the improvements. Before the council may adopt the resolution of necessity, the preliminary resolution, preliminary plans and specifications, plat, schedule, and estimate of cost must be submitted to, and receive written approval from, the board of supervisors of any county which contains part of the property, and the city development board established in section 368.9.

3. A city may establish, by ordinance or by resolution adopted as an ordinance after twenty days' notice

published in accordance with section 362.3, and a public hearing, one or more districts and schedules of fees for the connection of property to the city sewer or water utility. If the governing body directs that notice be made by mail, the notice shall be as required in section 384.50. Each person whose property will be served by connecting to the city sewer or water utility shall pay a connection fee to the city. The ordinance shall be certified by the city and recorded in the office of the county recorder of the county in which a district is located. The connection fees are due and payable when a utility connection application is filed with the city. A connection fee may include the equitable cost of extending the utility to the properties, including reasonable interest from the date of construction to the date of payment. All fees collected under this subsection shall be paid to the city treasurer. The moneys collected as fees shall only be used for the purposes of operating the utility, or to pay debt service on obligations issued to finance improvements or extensions to the utility.

This subsection shall not apply when a city annexation plan includes annexation of an area adjoining the city and a petition has not been presented as provided in section 384.41 for a city sewer or water utility connection. Until annexation takes place, or the annexation plan is abandoned, the state mandate contained in section 455B.172, subsections 3, 4, and 5, shall not apply unless the individual property owner voluntarily pays the connection fee and requests to be connected to the city sewer or water utility.

[SS15, § 840-d, -g; C24, § 5985, 5986; C27, 31, 35, § 5985, 5986, 6190-a1; C39, § **5985, 5986, 6190.01**; C46, § 391.12, 391.13, 401.1; C50, § 391.12, 391.13, 391A.2, 401.1, 420.56; C54, 58, 62, § 391.12, 391.13, 391A.2, 401.1; C66, 71, 73, § 390A.3, 390A.18, 391.12, 391.13, 391A.2, 401.1; C75, 77, 79, 81, § 384.38]

94 Acts, ch 1073, §1; 96 Acts, ch 1120, § 1; 2004 Acts, ch 1086, §65

#### **384.39 Improvements brought to grade.**

Paving, curbing, guttering, or sidewalks may not be constructed unless the improvement, when completed, will be to grade.

[C73, § 466; C97, § 779, 792; S13, § 779, 792; SS15, § 840-q; C24, 27, 31, 35, 39, § **5962, 5976**; C46, § 389.31, 391.3; C50, § 389.31, 391.3, 391A.2; C54, 58, 62, 66, 71, 73, § 389.31, 391.3, 391A.3; C75, 77, 79, 81, § 384.39]

#### **384.40 Underground improvements.**

A city may include underground gas, water, heating, sewer, or electrical connections to the street or property line for private property as a part of the public improvement, or a city may order the property owner to make, repair, or relocate such connections by publication of a notice once each week for two consecutive weeks in the manner provided by section 362.3, and if the order is not complied with at the end of thirty days after the date of the first publication, the city may cause the work to be done and assess the cost against the property served by the connection.

[C97, § 779, 809; S13, § 779, 792-f; C24, 27, 31, 35, 39, § **5981**; C46, § 391.8; C50, § 391.8, 391A.16; C54, 58, 62, 66, 71, 73, § 391.8, 391A.4; C75, 77, 79, 81, § 384.40]

#### **384.41 Petition by property owners.**

1. Property owners may initiate a plan for a public improvement to be paid for in whole or in part by special assessments, by written contract to be approved by the city and signed by all of the owners of record of all property affected by the proposed assessment. If all owners of record of all the property to be affected by the public improvement petition the council, said owners may, in their petition, waive notice to property owners by publication and mailing, as provided in section 384.50, and the council may proceed to adopt a preliminary resolution, a plat, schedule and estimate, and resolution of necessity, and order preparation of

detailed plans and specifications. Special assessments initiated without notice under this section are liens upon the property to be affected by the assessment, to the same extent as provided in section 384.65, subsection 5, except that they shall be subordinate to any perfected lien unless the holder of such perfected lien consents in writing to the initiation of the public improvement.

2. A petition may be filed subsequent to the initiation by the council of a plan for a public improvement, and if the petition is received prior to advertising for bids, the public improvement petitioned for may be added by amendment to the resolution of necessity. If the petition is received subsequent to advertising for bids and prior to the completion of the work under contract, the council may, in its discretion, approve the petition and contract with the contractor at a cost not to exceed the unit prices bid at public letting for the construction of the public improvements petitioned for by property owners.

3. This section does not limit the power of a city to initiate a public improvement project on its own motion.

4. Owners of commercial or industrial property may initiate a plan, under subsection 1 or 2, for the purchase of a traffic-control device, fixture, connection, or facility to be paid for in whole or in part by special assessments provided that the proposed assessments shall be made only against the commercial or industrial property owned by the petitioners.

[C31, 35, § 6610-c7; C39, § **6610.13**; C46, 50, 54, 58, 62, 66, 71, 73, § 417.7; C75, 77, 79, 81, § 384.41]

92 Acts, ch 1176, §2

### **384.42 Procedure on public improvement.**

To construct or repair a public improvement to be paid for in whole or in part by special assessments, the council shall proceed as follows:

1. Arrange for engineering services to prepare the plats, schedules, estimates of cost, plans, and specifications and to supervise construction of the proposed improvement.

2. Adopt a preliminary resolution by the vote of a majority of all the members of the council. The preliminary resolution shall contain the following:

*a.* A description of the types or alternate types of improvement proposed.

*b.* The beginning and terminal points or general location of the proposed improvement.

*c.* An order to the engineer to prepare preliminary plans and specifications, estimated total cost of the work, and a plat and schedule, and to file them with the clerk.

*d.* A general description of the property or a designation of the lots which the council believes will be specially benefited by the improvement.

3. The preliminary resolution may also contain the following:

*a.* A statement of the proportion of the total cost which the council proposes to assess against specially benefited property.

*b.* A short and convenient designation for the public improvement by which it may be referred to in all subsequent proceedings.

4. A preliminary resolution may include more than one improvement or class of improvement.

5. A single improvement may be in more than one locality or street, and that portion of the street which has been improved by any railway, or which the city may require the railway to improve under franchise or contract, may be excluded.

[C50, § 391A.4; C54, 58, 62, 66, 71, 73, § 391A.5; C75, 77, 79, 81, § 384.42]

#### **384.43 Preliminary plans.**

Preliminary plans and specifications must only be in sufficient detail to advise any person interested of the general nature, character, and type of the improvement.

[C54, 58, 62, 66, 71, 73, § 391A.6; C75, 77, 79, 81, § 384.43]

#### **384.44 Estimated cost.**

The estimated total cost of any public improvement constructed under this part must include all of the items of cost listed in section 384.37, subsection 26, which the council proposes to include as a part of the cost of the public improvement, and may include an item to be known as the default fund amounting to not more than ten percent of the portion of the total cost of the improvement which the council proposes to assess against specially benefited property.

[C50, § 391A.25; C54, 58, 62, 66, 71, 73, § 391A.7; C75, 77, 79, 81, § 384.44]

#### **384.45 Plats.**

The plat as prepared and filed by the engineer must show the following information:

1. The boundaries of the district containing the lots proposed to be assessed.
2. The location of each lot under separate ownership within the district, including the property of all railways and utilities subject to assessment.
3. The location of the improvement within the district, together with the terminal points of all major parts proposed to be assessed.
4. The type and general details of the improvement.

[C97, § 965; S13, § 849-b, 965; SS15, § 840-k; C24, 27, 31, 35, 39, § 5993, 6081, 6913; C46, § 391.20, 395.3, 420.265; C50, § 391.20, 391A.5, 395.3, 420.265; C54, 58, 62, § 391.20, 391A.8, 395.3, 420.265; C66, 71, 73, § 390A.9, 391.20, 391A.8, 395.3, 420.265; C75, 77, 79, 81, § 384.45]

#### **384.46 Lot valuations.**

Upon completion of the plat, the council shall determine the valuation of each lot within the proposed assessment district and shall report the valuations to the engineer, who shall show such valuations on the schedule before it is filed with the clerk. A valuation must be the present fair market value of the property with the proposed public improvement completed. As an aid in determining valuations, the council may appoint a committee of three persons skilled in the knowledge of real estate values within the city to appraise the present fair market value of each lot within a district and to file a written report of its appraisals with the council.

[C31, 35, § 6610-c4; C39, § 6610.08; C46, 50, § 417.4; C54, 58, 62, 66, 71, 73, § 391A.9, 417.4; C75, 77, 79, 81, § 384.46]

### **384.47 Schedule.**

The schedule, as prepared by the engineer, must show the following information for each lot within the district:

1. A description and parcel number of each lot and the name of the property owner.
2. The valuation of each lot as determined by the council.
3. The total amount proposed to be assessed to each lot, including the assessment for the default fund, if any.
4. The proportion of the estimated total cost of the public improvement which is allocated to each lot.
5. The amount of deficiency, if any, between the amount proposed to be assessed and the proportion of the estimated total cost of the public improvement allocated to each lot. The amount of deficiency shall be shown as a conditional deficiency assessment as authorized by sections 384.60, 384.62 and 384.63.

[C97, § 965; S13, § 849-b, 965; SS15, § 751, 840-k; C24, 27, 31, 35, 39, § **5993, 6081, 6913**; C46, § 391.20, 395.3, 420.265; C50, § 391.20, 391A.6, 395.3, 420.265; C54, 58, 62, § 391.20, 391A.10, 395.3, 420.265; C66, 71, 73, § 390A.9, 391.20, 391A.10, 395.3, 420.265; C75, 77, 79, 81, § 384.47]

98 Acts, ch 1107, §11

### **384.48 Adoption of plat.**

When the plat, schedule, and estimate of cost have been filed, the council may, before adopting a proposed resolution of necessity, cause the estimate, valuation, or assessment of any lot or the boundaries of the district as reported by the engineer to be amended, and may adopt the plat, schedule, and estimate as amended or as filed.

[C50, § 391A.8; C54, 58, 62, 66, 71, 73, § 391A.11; C75, 77, 79, 81, § 384.48]

### **384.49 Resolution of necessity.**

If, upon adoption of the plat, schedule, and estimate, the council determines to proceed with all or any part of the public improvement, it shall cause a proposed resolution of necessity to be prepared and introduced.

1. The resolution of necessity must include all of the following:
  - a. A brief description of the proposed public improvement.
  - b. A statement that there is on file in the office of the clerk an estimated total cost of the work, and a preliminary plat and schedule showing the amount proposed to be assessed to each lot for the improvement.
  - c. The date, time, and place the council will hear property owners subject to the assessment and interested parties for or against the improvement, its cost, the assessment, or the boundaries of the district.
2. A resolution of necessity may include:
  - a. Any number of streets or sewer lines for improvement.
  - b. All improvements which are included in the preliminary resolution.

c. A provision that unless a property owner files objections with the clerk at the time of hearing on the resolution of necessity, the property owner is deemed to have waived all objections pertaining to the regularity of the proceeding and the legality of using the special assessment procedure.

3. a. To replace curbing and gutters in cities with a population of less than ten thousand, the council may adopt a preliminary resolution as provided in subsection 1. The description of the curbing and gutters to be replaced shall be prepared under the council's supervision. The council may, by resolution, provide for the computation of the assessments on the basis of the original assessment or of the lineal footage of the curbing and gutters to be replaced. Public improvements initiated under this subsection shall in all other respects comply with this division.

b. For purposes of this subsection, "replace" means to substitute new curb and gutter at the same location where old curb and gutter is located and being reconstructed due to deterioration or destruction. "Replace" does not include the reconstruction of curb and gutter to change the grade or reconstruction required because of a street widening project.

[C73, § 465, 466; C97, § 791, 810; S13, § 849-c; SS15, § 751, 810, 840-j, 840-m; C24, § 5942, 5991, 5992; C27, § 5942-b2, 5991, 5992, 5995, 6082; C31, 35, § 5942-b2, 5991, 5992, 5995, 6082, 6610-c17; C39, § 5942.2, 5991, 5992, 5995, 6082, 6610.16; C46, § 389.6, 391.18, 391.19, 391.22, 395.4, 417.17; C50, § 389.6, 391.18, 391.19, 391.22, 391A.9, 395.4, 417.17; C54, 58, 62, § 389.6, 391.18, 391.19, 391.22, 391A.12, 395.4, 417.17; C66, 71, 73, § 389.6, 390A.7, 390A.8, 390A.11, 391.18, 391.19, 391.22, 391A.12, 395.4, 417.17; C75, 77, 79, 81, § 384.49; 82 Acts, ch 1087, § 1]

### **384.50 Notice of hearing.**

The clerk shall publish notice of the date, time, and place of the hearing once each week for two consecutive weeks in the manner provided by section 362.3, the first publication of which shall be not less than ten days before the date of the hearing. The notice must be in substantially the following form: NOTICE TO PROPERTY OWNERS

Notice is given that there is now on file for public inspection in the office of the clerk of ..... Iowa, a proposed resolution of necessity, an estimate of cost, and a plat and schedule showing the amounts proposed to be assessed against each lot and the valuation of each lot within a district approved by the council of ..... Iowa, for a ..... improvement of the type(s) and in the location(s) as follows:

The council will meet at .... o'clock ....m., on ..... (date), at the ..... at which time the owners of property subject to assessment for the proposed improvement or any other person having an interest in the matter may appear and be heard for or against the making of the improvement, the boundaries of the district, the cost, the assessment against any lot, or the final adoption of a resolution of necessity. A property owner will be deemed to have waived all objections unless at the time of hearing the property owner has filed objections with the clerk. .... Clerk

Not less than fifteen days before the hearing, the clerk shall send a copy of the notice by mail to each property owner whose property is subject to assessment for the improvement at the address as shown by the records of the county auditor. If a property is shown to be in the name of more than one owner at the same mailing address, a single notice may be mailed addressed to all owners at that address. Failure to receive a mailed notice is not a defense to the special assessment.

[C97, § 810, 823, 824, 965, 971; S13, § 823, 840-a, 849-c, 965, 971; SS15, § 810, 840-l, -r; C24, 27, § 5997, 6026, 6029, 6083, 6092, 6901, 6914; C31, 35, § 5997, 6026, 6029, 6083, 6092, 6610-c9, 6610-c10, 6901, 6914; C39, § 5997, 6026, 6029, 6083, 6092, 6610.21, 6610.22, 6901, 6914; C46, § 391.24, 391.53, 391.56, 395.5, 395.14, 417.9, 417.10, 420.253, 420.266; C50, § 391.24, 391.53, 391.56, 391A.10, 395.5, 395.14, 417.9, 417.10, 420.253, 420.266; C54, 58, 62, § 391.24, 391.53, 391.56, 391A.13, 395.5, 395.14, 417.9,

417.10, 420.253, 420.266; C66, 71, 73, § 390A.13, 390A.27, 390A.29, 391.24, 391.53, 391.56, 391A.13, 395.5, 395.14, 417.9, 417.10, 420.253, 420.266; C75, 77, 79, 81, § 384.50]

86 Acts, ch 1241, § 9; 2000 Acts, ch 1058, §62

### **384.51 Adoption of resolution.**

The council shall meet as specified in the published notice, and after hearing all objections and endorsements from property owners and other persons having an interest in the matter, and after considering all filed, written objections, may adopt or amend and adopt the proposed resolution of necessity, or may defer action until a subsequent meeting. A resolution of necessity requires for passage the vote of three-fourths of all the members of the council, or, in cities having but three members of the council, the vote of two members, and where a remonstrance has been filed with the clerk, signed by the owners subject to seventy-five percent of the amount of the proposed assessments for the entire public improvement included in the resolution of necessity, a resolution of necessity requires a unanimous vote of the council.

An amendment which extends the boundaries of a district, increases the amount to be assessed against a lot, or adds additional public improvements, is not effective until an amended plat, schedule, and estimate have been prepared and adopted, a notice published and mailed to all affected property owners, and hearing held in the same manner as the original proceedings, or until all affected property owners agree in writing to the change. The adoption of a resolution of necessity is a legislative determination that the improvement is expedient and proper and that property assessed will be specially benefited by the improvement and this determination of the council is conclusive. Ownership of property to be assessed by an improvement does not, except for fraud or bad faith, disqualify a council member from voting on any measure.

After adopting the resolution of necessity, the clerk shall certify to the county treasurer of each county in which the assessed property is located, a copy of the resolution of necessity, the plat, and the schedule of assessments. In counties in which taxes are collected in two or more places, the resolution of necessity, the plat, and the schedule of assessments shall be certified to the office of county treasurer where the special assessments are collected. The county treasurer shall preserve the resolution, plat, and schedule as a part of the records of the office until the city certifies the final assessment schedule as provided in section 384.60 or certifies that the public improvement has been abandoned.

[C73, § 466; C97, § 793, 794, 810, 811, 965; S13, § 792-b, 793, 965; SS15, § 810, 840-m; C24, 27, § 5996, 5999, 6915; C31, 35, § 5996, 5999, 6610-c15, 6610-c16, 6915, 6915-c1; C39, § **5996, 5999, 6610.26, 6610.28, 6915, 6915.1**; C46, § 391.23, 391.26, 417.15, 417.16, 420.267, 420.268; C50, § 391.23, 391.26, 391A.11, 417.15, 417.16, 420.267, 420.268; C54, 58, 62, § 391.23, 391.26, 391A.14, 417.15, 417.16, 420.267, 420.268; C66, 71, 73, § 390A.12, 391.23, 391.26, 391A.14, 417.15, 417.16, 420.267, 420.268; C75, 77, 79, 81, § 384.51; 82 Acts, ch 1104, § 15]

86 Acts, ch 1241, § 10; 89 Acts, ch 39, §11

### **384.52 Detailed plans and specifications.**

After adopting a resolution of necessity, the council may, by resolution, order the engineer to prepare and file with the clerk detailed plans and specifications, and order the engineer and city attorney, or any attorney designated by the council, to prepare and file with the clerk a notice to bidders and form of contract.

[C97, § 965; S13, § 965; C24, 27, 31, 35, 39, § **6915**; C46, § 420.267; C50, § 391A.12, 420.267; C54, 58, 62, 66, 71, 73, § 391A.15, 420.267; C75, 77, 79, 81, § 384.52]

### **384.53 Procedures to let contract.**

Contract letting procedures shall be as provided in division VI of this chapter. The council may award any number of contracts for construction of any public improvement.

[C97, § 791, 812; S13, § 840-a; C24, 27, 31, 35, 39, § **6001**; C46, 50, 54, 58, 62, 66, 71, 73, § 391.28; C75, 77, 79, 81, § 384.53]

### **384.54 Confirmation by decree.**

At any time after final adoption of the resolution of necessity, but before awarding the contract, the council may proceed as follows:

1. To direct the city attorney to file, in the district court of the county in which the property proposed to be assessed is located, a petition praying that the acts done by the council relative to the proposed public improvement be confirmed by decree.
2. The following must be filed with the petition in the office of the clerk of the court:
  - a. A copy of the resolution of necessity as adopted by the council.
  - b. A copy of the proposed schedule of assessments as adopted by the council under sections 384.48 and 384.51, which schedule shows the maximum amount that the council proposes to assess against any lot.
  - c. Preliminary plans and specifications, or, if available, detailed plans and specifications as prepared by the engineer.
  - d. A copy of the proposed contract if prepared.
3. Notice of the filing of the petition must be given in the same manner as is provided for service of original notice by publication by the rules of civil procedure, except as follows:
  - a. No affidavit of inability to obtain personal service within the state of Iowa is required.
  - b. The original notice must name as defendants those property owners who, on the date of filing the petition, have an interest in the real property to be assessed as a part of the public improvement, and the original notice must state that a plat and schedule is on file in the office of the clerk of the district court where the action is pending. No property owner is an indispensable party to the action. Publication of plat and schedule as part of the original notice is not required, nor shall reference in the original notice to specific descriptions of affected real property or the amounts of proposed assessments be necessary.
4. The petition must be given precedence over any other business of the court, except criminal cases. The court shall set the petition for hearing within thirty days from the date of final publication of notice. As a part of its order, the court may provide for a pretrial conference to be held not earlier than twenty days from the date of final publication of notice and require the appearance at the pretrial conference of all interested parties. Failure to appear at the pretrial conference may be grounds for dismissing any objection.
5. If no person having an interest in property proposed to be assessed has entered an appearance or filed an answer within the time set for hearing on the petition, the court shall confirm the assessment, and order the clerk of court to certify its decree to the city clerk.
6. If any person having an interest in property proposed to be assessed has entered an appearance or filed an answer to the petition, the court shall hear the cause as an action triable in equity.
7. Upon the hearing the court may correct any irregularities or inequalities in valuations or in the schedule of

assessments, and shall consider any objections because of alleged illegal procedure or fraud.

8. The court shall render a decision upon the hearing as soon as practical after the final submission of the cause.
9. The clerk of the court shall certify to the city clerk the final action of the court, within three days from the date of the final decree upon the petition, showing assessments as confirmed in the schedule of assessments.
10. An appeal from the decree of the district court must be taken as in other equity cases.
11. A contract may or may not be let, in the discretion of the council, until appeals are finally determined, but the appeals need not delay the letting and execution of a contract for the work, if the council concludes the appeals were not taken in good faith.
12. An appeal does not, in the discretion of the council, delay the certification of an assessment or progress of an improvement, but upon decision of the appeal the assessment appealed from must be corrected and collected in the same manner as provided in section 384.74.
13. Corrections of assessments or valuations made by order of the district court are conclusive and not subject to review on appeal, or otherwise, except as provided in subsections 10 to 12 of this section. When court confirmation is obtained there is no right of appeal under the provisions of section 384.66.
14. If no contract is entered into within ninety days from the date of confirmation by the district court or within a further time allowed by the court on subsequent application, and if no appeal is pending, the court shall cancel the assessment, upon application of the city attorney.
15. The cost of all court proceedings are a legitimate item of expense in connection with a public improvement, and may be included within the final assessment against any property specially benefited in the assessment district.

Whenever on a hearing by the court, the amount of any assessment is reduced or canceled so that there is a deficiency in the total amount remaining assessed in the proceeding, the court may assess the deficiency to the city or distribute the deficiency upon the other property abutting upon or adjacent to the improvement or in the district assessed, in a manner the court finds to be just and equitable, not exceeding, however, the amount the property would be specially benefited by the improvement, and not exceeding twenty-five percent of the value of the lot as shown by the plat and schedule of assessments or as reduced by the court.

[C31, 35, § 6610-c28, -c31, -c32, -c34c40, -c42c44, -c56; C39, § **6610.316610.33, 6610.366610.41, 6610.43, 6610.44, 6610.46, 6610.65, 6610.67**; C46, 50, § 417.28, 417.31, 417.32, 417.34417.40, 417.42417.44, 417.60; C54, 58, 62, 66, 71, 73, § 391A.18, 417.28, 417.31, 417.32, 417.34417.40, 417.42417.44, 417.60; C75, 77, 79, 81, § 384.54]

### **384.55 Notice of paving to water board.**

In cities having a water utility under the management of a board of trustees and in which water connections are not installed by the trustees at public expense, the council shall notify the board at the time of the adoption of a preliminary resolution, of any proposed street paving projects. The board shall report to the council the number of connections from water mains in streets to the curb lines of the proposed improvement necessary to serve private property dependent upon those particular mains for water supply, and the numbers of the lots to be served by the connections, and the names of the owners. Notice must be given to property owners, at the same time and in the same manner as the notice provided in section 384.50, to install the necessary connections within thirty days after hearing. For the purposes of the hearing, property owners who are notified to install water connections, but whose property is not within the proposed assessment district,

may appear as interested parties. If upon hearing, the council determines to proceed with the improvement, and any property owner fails to make connections as required, the board of waterworks trustees shall cause them to be made and certify the cost to the council to be assessed against the property and collected in the same manner as provided in section 384.40 for other underground connections.

[C97, § 809; S13, § 779, 792-f; C24, 27, 31, 35, 39, § **5892, 5893**; C46, § 391.9, 391.10; C50, § 391.9, 391.10, 391A.17; C54, 58, 62, 66, 71, 73, § 391.9, 391.10, 391A.20; C75, 77, 79, 81, § 384.55]

### **384.56 State lands.**

1. Cities may assess the cost of a public improvement which extends through, abuts upon, or is adjacent to lands owned by the state, and the executive council shall pay the assessable portion of the cost of the improvement through or along the lands as provided. The executive council shall pay assessments as provided in section 307.45.
2. When a state park or institutional road abutting on or adjacent to state lands on one side of the road is improved by paving, the state shall pay one-half the total assessed cost of the portion of the improvement abutting, or adjacent to state lands, lots, or portions thereof, but for any other type of improvement so constructed and located, the state shall pay, as provided in section 307.45, the portion of the cost which would be assessable against state lands if they were privately owned.
3. When any portion of the cost of a public improvement is to be paid by the state under this section, the clerk shall, at the time of publication of the notice required by section 384.50, mail a copy of the notice to the secretary of the executive council.
4. Cities in which state buildings are located shall permit sewers for such buildings to be constructed through or under the streets of the city, and connections to be made to the sewer system of the city under the same regulations as for sewer connections to private property.
5. Subsections 1 and 3 of this section do not apply to lands under the jurisdiction and control of the department of transportation.

[C97, § 794; C24, 27, 31, 35, 39, § **5988**; C46, § 391.15; C50, § 391.15, 391A.18; C54, 58, 62, § 391.15, 391A.21; C66, 71, 73, § 390A.22, 391.15, 391A.21; C75, 77, 79, 81, § 384.56]

86 Acts, ch 1241, § 11

### **384.57 Monthly payments.**

The city may contract to pay not to exceed ninety-five percent of the engineer's estimated value of the acceptable work completed during the month to the contractor at the end of each month. Payment may be made in warrants drawn on any funds from which payment for the work may be made. If such funds are depleted, anticipatory warrants may be issued bearing a rate of interest not exceeding that permitted by chapter 74A, which do not constitute a violation of section 384.10, even if the collection of taxes or special assessments or income from the sale of bonds applicable to the public improvement is after the end of the fiscal year in which the warrants are issued. If the city arranges for the private sale of anticipatory warrants, they may be sold and the proceeds used to pay the contractor. Anticipatory warrants may also be used to pay other persons furnishing services constituting a part of the cost of the public improvement. The provisions of this section and section 384.58 shall not apply if the city has entered into a contract with the federal government or accepted a federal grant which is governed by federal laws or rules that are contrary to this section and section 384.58.

[C50, § 391A.19; C54, 58, 62, 66, 71, 73, § 391A.22; C75, 77, 79, 81, § 384.57; 81 Acts, ch 127, § 1]

### **384.58 Inspection of work.**

1. The engineer for the city shall inspect all work done under this division, and within fifteen days of final completion of the public improvement, the engineer shall file a certificate with the clerk stating:
  - a. That the engineer has inspected the completed work.
  - b. That the work has or has not been performed in compliance with the terms of the contract, and the particulars, if any, in which the work varies from the terms.
  - c. The total cost of the completed work.
2. Within fifteen days after the filing of the engineer's certificate, the council shall by resolution accept or reject the work.
3. Upon accepting the work, or within ten days thereafter, the council shall ascertain the total cost and by resolution determine the proportion or amount of the cost to be assessed against private property within the assessment district. If the council has elected to award more than one contract for the work, the council may elect to proceed separately with the acceptance and levy of assessments for the work done under each contract.
4. Upon accepting the work, the council shall order payment of any amount due the contractor, to be made by warrants issued in the manner provided by section 384.57 or by other means. The city shall order payment of any amount due the contractor to be made in accordance with the terms of the contract. Failure to make payment within seventy days after the work under the contract has been completed and if the work has been accepted and all required materials, certifications, and other documentations required to be submitted by the contractor and specified by the contract have been furnished the awarding city by the contractor, shall cause interest to accrue on the amount unpaid to the benefit of the unpaid party. Interest shall not accrue on funds retained by a city to satisfy the provisions of section 573.14 regarding claims on file. Interest shall accrue during the period commencing the thirty-first day following the completion of work and satisfaction of the other requirements of this subsection and ending on the date of payment. The rate of interest shall be determined, by the period of time during which interest accrues, and shall be the same as the rate of interest that is in effect under section 12C.6, as of the day interest begins to accrue, for a deposit of public funds for a comparable period of time. Nothing contained in this subsection shall abridge any of the rights set forth in section 573.16.

[C97, § 820, 822; S13, § 779, 792-f, 820, 840-a; SS15, § 840-r; C24, 27, § 6018, 6025; C31, 35, § 6018, 6025, 6610-c52, 6610-c54; C39, § 6018, 6025, 6610.53, 6610.56; C46, § 391.45, 391.52, 417.56, 417.58; C50, § 391.45, 391.52, 391A.20, 417.56, 417.58; C54, 58, 62, 66, 71, 73, § 391.45, 391.52, 391A.23, 417.56, 417.58; C75, 77, 79, 81, § 384.58; 81 Acts, ch 127, § 2]

### **384.59 Assessment schedule.**

1. Within thirty days after the council adopts a resolution fixing the amount to be assessed against private property, the engineer shall file with the clerk an assessment schedule showing:
  - a. A description and parcel number of each lot to be assessed.
  - b. The valuation of each lot as fixed by the council.
  - c. The amount to be assessed against each lot, which shall include the assessment for the default fund, if any, and the amount of deficiency, if any, which may be subsequently assessed against each lot under section 384.63.

2. In the case of the abatement of a nuisance by a city, the city clerk may prepare, sign, and file the assessment schedule and other related documents that would otherwise be required of the engineer.

[C97, § 821; S13, § 792-f; SS15, § 840-r; C24, § 6022, 6023; C31, 35, § 6022, 6023, 6610-c19; C39, § **6022, 6023, 6610.45**; C46, § 391.49, 391.50, 417.19; C50, § 391.49, 391.50, 391A.21, 417.19; C54, 58, 62, § 391.49, 391.50, 391A.24, 417.19; C66, 71, 73, § 390A.24, 391.49, 391.50, 391A.24, 417.19; C75, 77, 79, 81, § 384.59]

97 Acts, ch 121, § 10; 2002 Acts, ch 1046, § 1

### **384.60 Adoption of schedule.**

1. Within ten days after filing of the assessment schedule, the council shall meet, consider, and adopt or amend and adopt, by resolution, the final assessment schedule. The resolution must:

*a.* Confirm and levy assessments, including a conditional levy of the amount of deficiencies which may be subsequently assessed against each lot under section 384.63.

*b.* State the number of annual installments, not exceeding fifteen, into which assessments of one hundred dollars or more are divided.

*c.* Provide for interest on all unpaid installments at a rate not exceeding that permitted by chapter 74A.

*d.* State the time when assessments are payable.

*e.* Direct the clerk to certify the final schedule to the treasurer of the county or counties in which the assessed property is located, and to publish notice of the schedule once each week for two consecutive weeks in the manner provided in section 362.3, the first publication of which shall be not more than fifteen days from the date of filing of the final schedule.

2. On or before the second publication of the notice, the clerk shall send by mail to each property owner whose property is subject to assessment for the improvement, as shown by the records in the office of the county auditor, a copy of the notice. The notice shall also include a statement in substance that assessments may be paid in full or in part without interest within thirty days after the date of the first notice of the final assessment schedule, and thereafter all unpaid special assessments bear interest at the rate specified by the council, but not exceeding that permitted by chapter 74A, computed to the December 1 next following the due dates of the respective installments as provided in section 384.65, subsection 3, and each installment will be delinquent from October 1 following its due date. However, when the last day of September is a Saturday or Sunday, that amount shall be delinquent from the second business day of October. Delinquent installments will draw the same delinquent interest as ordinary taxes. The notice shall also state substantially that property owners may elect to pay any installment semiannually in advance. If a property is shown by the records to be in the name of more than one owner at the same mailing address, a single notice may be mailed to all owners at that address. Failure to receive a mailed notice is not a defense to the special assessment or interest due on the special assessment.

3. The county treasurer shall enter on the county system the amounts to be assessed against each lot within the assessment district, as certified.

[R60, § 1068; C73, § 481; C97, § 825, 826, 827, 982; S13, § 791-c, 825, 849-e; SS15, § 840-r; C24, 27, § 5966, 6030, 6034, 6101, 6923; C31, 35, § 5966, 6030, 6034, 6101, 6610-c45, 6923; C39, § **5966, 6030, 6034, 6101, 6610.47, 6923**; C46, § 389.35, 391.57, 391.61, 395.23, 417.45, 420.276; C50, § 389.35, 391.57, 391.61, 391A.22, 395.23, 417.45, 420.276; C54, 58, 62, § 389.35, 391.57, 391.61, 391A.25, 395.23, 417.45,

420.276; C66, 71, 73, § 389.35, 390A.30, 391.57, 391.61, 391A.25, 395.23, 417.45, 420.276; C75, 77, 79, 81, § 384.60; 82 Acts, ch 1104, § 16]

83 Acts, ch 148, § 1; 86 Acts, ch 1241, § 12; 92 Acts, ch 1016, §8; 97 Acts, ch 121, § 11; 98 Acts, ch 1107, §12, 13; 2005 Acts, ch 34, §9, 26

### **384.61 Assessment of benefits.**

The total cost of a public improvement, except for paving that portion of a street lying between railroad tracks and one foot outside of the tracks, or which is to be otherwise paid, must be assessed against all lots within the assessment district in accordance with the special benefits conferred upon the property, and not in excess of such benefits.

If an owner of property subject to special assessment divides the property into two or more lots, and if the plan of division is approved by the council, the owner may discharge the lien upon any of the lots by payment of the amount unpaid, calculated as determined by the council.

[C97, § 828; S13, § 792-a, -f, 849-e; SS15, § 840-a, -j, -r; C24, § 6021, 6036, 6089; C27, § 5942-b3, 6021, 6036, 6089; C31, 35, § 5942-b3, 6021, 6036, 6089, 66106620; C39, § **5942.3, 6021, 6036, 6089, 6610.14**; C46, § 389.7, 391.48, 391.63, 395.11, 417.20; C50, § 389.7, 391.48, 391.63, 391A.23, 395.11, 417.20; C54, 58, 62, 66, 71, 73, § 389.7, 391.48, 391.63, 391A.26, 395.11, 417.20; C75, 77, 79, 81, § 384.61]

### **384.62 Limit.**

1. A special assessment against a lot for a public improvement shall not be in excess of the amount of the assessment, including the conditional deficiency assessment, as shown in the schedule confirmed by the court, or if court confirmation is not utilized, then on the original plat and schedule adopted by the council, and an assessment shall not exceed twenty-five percent of the value of the lot as shown by the plat and schedule approved by the council or as reduced by the court.

2. Special assessments for the construction or repair of underground connections for private property for gas, water, sewers, or electricity may be assessed to each lot for the actual cost of each connection for that lot, and the twenty-five percent limitation does not apply. Such connections shall not be installed to service railway right-of-way without written agreement with the railway company owning or leasing the right-of-way.

3. A special assessment for a public improvement against a tract of land assessed as agricultural property shall not become payable upon the filing of a request by the owner for deferment until that land is not assessed as agricultural property. This section shall not apply to a tract of land of less than one-quarter acre surrounding any dwelling or nonfarm structure on that tract nor shall it apply to a special assessment levied before July 3, 1978. This section shall not apply if the public improvement is a sewer, water, gas, or electrical line to which the owner of the land makes a connection.

4. Payment of installments of special assessments for a public improvement against property assessed as agricultural property shall be deferred as follows:

*a.* The property owner who seeks deferment of an assessment shall file a written request for deferment with the city clerk at the time of the hearing on the resolution of necessity for the public improvement or within ten days following the date of the hearing and the request shall identify those lots subject to proposed assessments for which the property owner is seeking deferment which are assessed as agricultural property. The request may be withdrawn by the property owner at any time before or after the adoption of the resolution of necessity.

*b.* The city shall indicate those lots for which a deferment has been requested on the special assessment

schedule.

c. After the assessments for the public improvement have been levied and the special assessment schedule has been filed with the county treasurer, the county treasurer shall indicate on the tax rolls those assessments subject to deferment under this section.

d. A deferment shall continue for as long as the county assessor continues to classify the property as agricultural land on January 1 of each assessment year. A deferment shall end six months following any January 1 assessment date on which the county assessor no longer classifies the property as agricultural land and the special assessment shall become payable in the same manner as the special assessment would have become payable had it not been deferred by this subsection.

[S13, § 792-a, -f, 849-e; SS15, § 840-a, -j, -r; C24, 27, § 6021, 6089; C31, 35, § 6021, 6089, 6610-c55; C39, § 6021, 6089, 6610.66; C46, § 391.48, 395.11, 417.59; C50, § 391.48, 391A.24, 395.11, 417.59; C54, 58, 62, 66, 71, 73, § 391.48, 391A.27, 395.11, 417.59; C75, 77, 79, 81, § 384.62; 82 Acts, ch 1104, § 17]

2003 Acts, ch 24, §5

### **384.63 Insufficiency certification to county treasurer deficiency assessment.**

1. If the special assessment which may be levied against a lot is insufficient to pay its proportion of the cost of the improvement, or if no special assessment may be levied against a lot, the deficiency shall be paid from the city fund or funds designated by the council.

2. The council shall, by resolution, provide that the deficiencies for the lots specially benefited by a public improvement shall be certified to the county treasurer, who shall record them in the county system as "special assessment deficiencies", and to the appropriate city official charged with the responsibility of issuing building permits, who shall notify the council when a private improvement is subsequently constructed on any lot subject to a deficiency. Certification to the county treasurer shall include a legal description of each lot. The period of amortization for a public improvement for which there are deficiencies shall commence with the adoption of the resolution of necessity and extend for the same period for which installments of assessments for the project are made payable. Deficiencies may be assessed only during the period of amortization, which shall also be certified to the county treasurer and the city official charged with the responsibility of issuing building permits. Certification to the county treasurer shall include a legal description of each lot.

3. When a private improvement is constructed on a lot subject to a deficiency, during the period of amortization, the council shall, by resolution, assess a pro rata portion of the deficiency on that lot, in the same proportion to the total deficiency on that lot as the number of future installments of special assessments remaining to be paid is to the total number of installments of assessments for the project, subject to the twenty-five percent limitation of section 384.62. A deficiency assessment becomes a lien on the property and is payable in the same manner, and subject to the same interests as the other special assessments. The council shall direct the clerk to certify a deficiency assessment to the county treasurer, and to send a notice of the deficiency assessment by mail to each owner, as provided in section 384.60, but publication of the notice is not required.

4. An owner may appeal from the amount of the assessment within thirty days of the date notice is mailed. County officials shall collect a deficiency assessment, commencing in the year following the assessment, in the manner provided for the collection of other special assessments. Upon collection, the county treasurer shall make the appropriate credit entries in the county system, and shall credit the amounts collected as provided for other special assessments on the same public improvement, or to the city, to the extent that the deficiency has been previously paid from other city funds.

[S13, § 792-b; C24, 27, 31, 35, 39, § **6017**; C46, § 391.44; C50, § 391.44, 391A.25; C54, 58, 62, § 391.44, 391A.28; C66, 71, 73, § 390A.19, 391.44, 391A.28; C75, 77, 79, 81, § 384.63; 82 Acts, ch 1104, § 18]

83 Acts, ch 90, § 24; 86 Acts, ch 1241, § 13; 92 Acts, ch 1016, §9; 97 Acts, ch 121, § 12; 2003 Acts, ch 108, §70

### **384.64 Assessment to railway company.**

The right of way of a railway company is subject to special assessments for public improvements, and such assessments constitute a debt due the city which is a paramount lien upon the track of the railway company owning or leasing the right of way within the limits of the city. The property of a railway to which a lien for unpaid special assessment has attached may not be released from the lien until the whole assessment is paid.

[C97, § 816, 828; S13, § 791-i, 792-f, 816; SS15, § 840-r; C24, 27, 31, 35, 39, § **6009, 6010, 6013**; C46, § 391.36, 391.37, 391.40; C50, § 391.36, 391.37, 391.40, 391A.26; C54, 58, 62, 66, 71, 73, § 391.36, 391.37, 391.40, 391A.29; C75, 77, 79, 81, § 384.64]

### **384.65 Installments due.**

1. The first installment of each assessment, or the total amount if less than one hundred dollars, is due and payable on July 1 next succeeding the date of the levy, unless the assessment is filed with the county treasurer after May 31 in any year. The first installment shall bear interest on the whole unpaid assessment from the date of acceptance of the work by the council to the first day of December following the due date.
2. The succeeding annual installments, with interest on the whole unpaid amount, to the first day of December following the due date, are respectively due on July 1 annually, and must be paid at the same time and in the same manner as the September semiannual payment of ordinary taxes.
3. All future installments of an assessment may be paid on any date by payment of the then outstanding balance, plus interest to the next December 1, or additional annual installments may be paid after the current installment has been paid before December 1 without interest. A payment must be for the full amount of the next installment. If installments remain to be paid, the next annual installment with interest added to December 1 will be due as provided in subsection 2.
4. Each installment of an assessment with interest on the unpaid balance is delinquent from October 1 after its due date and bears the same delinquent interest as ordinary taxes. However, when the last day of September is a Saturday or Sunday, the unpaid balance of the installment is delinquent from the second business day of October after its due date. When collected, the interest must be credited to the same fund as the special assessment.

To avoid interest on delinquent special assessment installments, a payment of the full installment amount must be received by the treasurer on or before the last business day of the month preceding the delinquent date, or mailed with appropriate postage and applicable fees paid, and a United States postal service postmark affixed to the payment envelope, with the postmark bearing a date preceding the delinquent date. Items returned to the sender by the United States postal service for insufficient postage or applicable fees shall be assessed interest, unless the appropriate postage and fees are paid and the items are postmarked again before the delinquent date. However, if the last calendar day of a month falls on a Saturday, Sunday, or a holiday, that amount becomes delinquent on the second business day of the following month.

To avoid interest on current or delinquent special assessment installments, for payments made through a county treasurer's authorized website only, if the last day of the month falls on a Saturday, Sunday, or a

holiday, the electronic payment must be initiated by midnight on the first business day of the next month. All other electronic payments must be initiated by midnight on the last day of the month preceding the delinquent date.

5. From the date of filing of a certified copy of the resolution of necessity, the plat, and the schedule of assessments as provided in section 384.51, all special assessments with all interest become and remain a lien on the benefited properties until paid, and have equal precedence with ordinary taxes, and are not divested by any judicial sale.

6. After December 1, if a special assessment is not delinquent, a property owner may pay one-half or all of the next annual installment of principal and interest of a special assessment prior to the delinquency date of the installment. When the next installment has been paid in full, successive principal installments may be prepaid. The county treasurer shall accept the payments of the special assessment, and shall credit the next annual installment or future installments of the special assessment to the extent of the payment or payments, and shall remit the payments to the city. If a property owner elects to pay one or more principal installments in advance, the pay schedule shall be advanced by the number of principal installments prepaid.

7. Each installment of an assessment shall be equal to the amount of the unpaid assessment as computed on the thirty-first day after the certification of the assessment divided by the number of annual installments into which the assessment may be divided as adopted by the council pursuant to section 384.60.

8. Each installment of a special assessment shall be calculated to the nearest whole dollar. Interest on unpaid installments and interest added for delinquencies shall also be calculated to the nearest whole dollar. The minimum interest amount is one dollar.

[R60, § 1068; C73, § 478, 481; C97, § 816, 825, 827, 974, 975; S13, § 791-b, -c, 792-f, 816, 825, 840-a, 975; SS15, § 840-r, 974; C24, 27, 31, 35, 39, § **5965, 5966, 6008, 6033, 69066908**; C46, § 389.33389.35, 391.35, 391.60, 420.258420.260; C50, § 389.33389.35, 391.35, 391.60, 391A.27, 420.258420.260; C54, 58, 62, 66, 71, 73, § 389.33389.35, 391.35, 391.60, 391A.30, 420.258420.260; C75, 77, 79, 81, § 384.65]

83 Acts, ch 90, § 25; 83 Acts, ch 148, § 2; 86 Acts, ch 1215, § 1; 88 Acts, ch 1104, §1; 92 Acts, ch 1016, §10; 95 Acts, ch 57, §8; 98 Acts, ch 1107, §14; 99 Acts, ch 83, §6; 2005 Acts, ch 34, §10, 26

### **384.66 Test of regularity.**

1. A person having an interest in property subject to special assessment may, within twenty days after the adoption of a resolution of necessity, test the regularity of the proceedings or legality of the assessment procedure by a petition in equity filed in the district court of the county where the property is located. A petition does not stay further proceedings on the improvement by the council, unless there is also filed a bond in an amount and with security approved by the court.

2. A person having an interest in any property specially assessed may appeal from the amount of the assessment, at any stage of the special assessment procedure up to twenty days after the final publication of notice of filing of the final assessment schedule, by petition to the district court of the county where the property is located but such appeal is only to the amount of that assessment and does not stay further proceedings by the council on the improvement. No action shall be brought appealing the amount of any special assessment from and after twenty days after said final publication.

3. A person having an interest in property subject to special assessment has a right of appeal to the district court on the ground of fraud.

4. No action may be brought questioning the regularity of the proceedings pertaining to special assessments or the validity of any special assessment levied for any public improvement under this part, from and after

sixty days after the final publication of notice of filing the final assessment schedule.

[C97, § 839; S13, § 792-c, -f, 840-a; SS15, § 840-r; C24, 27, 31, 35, 39, § **60636065, 6091**; C46, § 391.88391.90, 395.13; C50, § 391.88391.90, 391A.28, 395.13; C54, 58, 62, 66, 71, 73, § 391.88391.90, 391A.31, 395.13; C75, 77, 79, 81, § 384.66]

### **384.67 Payment to county treasurer.**

Assessments levied and certified under the provisions of this division, including installments and interest, are payable at the office of the county treasurer of the county where the property assessed is located, except that assessments may be paid in full or in part and without interest within thirty days after the date of certification, at the office of the county treasurer, if the property being assessed is located in an unincorporated area, or the city clerk, if the property being assessed is located in an incorporated area.

[C97, § 825; S13, § 825; C24, 27, 31, 35, 39, § **6031**; C46, § 391.58; C50, § 391.58, 391A.29; C54, 58, 62, 66, 71, 73, § 391.58, 391A.32; C75, 77, 79, 81, § 384.67]

2003 Acts, ch 24, §6

### **384.68 Bonds issued.**

1. After certification of the final assessment schedule, the city may, by resolution, authorize and issue bonds in anticipation of the collection of unpaid special assessments. However, the total principal amount of bonds issued for a public improvement may not exceed the total amount of unpaid special assessments less the proportionate unpaid amount assessed for the default fund.
2. All special assessment bonds are negotiable, must state on their face that they are issued under the provisions of this division, and are payable as to both principal and interest from the proceeds of the special assessments levied for the public improvement. Such bonds may bear interest at a rate not exceeding that permitted by chapter 74A payable annually or semiannually, must mature serially on December 1 of the years in which any of the principal is scheduled to become due, and may contain a provision that the city reserves the right and option of calling and redeeming any or all of the bonds prior to maturity on any interest payment date or within forty-five days thereafter upon the terms specified therein. Such bonds must be called "improvement bonds", must designate the general type of improvement or improvements for which issued, and may be issued in any denomination, not exceeding ten thousand dollars. Bonds issued for a public improvement authorized in section 384.38, subsection 2, must be named in a way to distinguish them from other improvement bonds of the city, and to designate the property specially assessed for the improvement. Improvement bonds issued for any one levy must bear the same date and be divided into as many series as there are years in which installments of the special assessment mature, and each series must be as nearly equal in amount as practicable.
3. The proceeds of the special assessments and interest collected thereon must be used and applied by the city to the payment of the interest on the bonds and to the retirement of the principal as rapidly as proceeds are collected. Such bonds and coupons do not make the city liable in any way, except for the proper application of special assessments. If interest becomes due on any of the bonds when there is no fund or funds from which to pay it, the council may make a temporary loan for payment of the interest, which loan must be repaid from the special assessments and interest pledged to secure the bonds, but in case of purchase by the city at tax sale of the property on which a special assessment is levied, the loan must be repaid from the funds of the city from which deficiencies on the improvement were paid, or if there were no deficiencies, from the general fund.
4. Special assessment bonds must be sold at public or private sale in the manner provided by chapter 75, and may not be sold for less than par value with accrued interest from date to the time of delivery, or if no bids

are received at public sale, bonds bearing the same rate of interest as the special assessment may be delivered to the contractor in payment of the cost of the public improvement. The proceeds of the sale must be applied to the payment of the cost of the public improvement.

5. Any excess of proceeds from special assessments remaining after all of the bonds for a particular improvement have been paid with interest may be credited to the fund from which deficiencies for the improvement could have been paid. However, any excess in a default fund established for a public improvement authorized in section 384.38, subsection 2, shall be held by the city in a special fund to guarantee other improvement bonds which may be issued by the city for public improvements authorized under that section.

6. Cities may issue refunding bonds to pay off and take up special assessment bonds issued in payment for public improvements, or to refund any part thereof, as follows:

*a.* Refunding bonds must substantially conform to the provisions of this division, and the face value is limited to the amount of the unpaid special assessments with the interest thereon of the particular issue of bonds to be refunded.

*b.* Refunding bonds or their proceeds may be used only to pay improvement bonds taken up.

*c.* The expense of refunding bonds must be paid out of the funds of the city from which the cost of similar improvements might lawfully be paid.

*d.* When refunding bonds are issued to pay improvement bonds, all special assessments and sinking funds applicable to the payment of the improvement bonds previously issued must be applied in the same manner and to the same extent to the payment of the refunding bonds, and all the powers and duties to levy and to carry special assessments and taxes, to create liens upon property, and to establish sinking funds in respect to the bonds previously issued continue until refunding bonds are paid.

*e.* The city shall collect the special assessment out of which the refunding bonds are payable and hold the proceeds in trust for the payment of the refunding bonds, but it is not liable except for the proper application of the assessments.

7. No action shall be brought questioning the legality of the bonds authorized by this section from and after sixty days from the date the bonds are ordered issued by the city.

[C97, § 842, 843, 845, 847, 987; C24, § 61096113, 6117, 6118, 61216124, 6925, 6932; C27, § 5942-b3, 6066-a11, 61096113, 6117, 6118, 61216124, 6126-a1a6, 6925, 6932; C31, 35, § 5942-b3, 6066-a11, 61096113, 6117, 6118, 61216124, 6126-a1a6, 6610-c65, -c66, 6925, 6932; C39, § **5942.3, 6066.13, 61096113, 6117, 6118, 61216124, 6126.16126.6, 6610.71, 6610.72, 6925, 6932**; C46, § 389.7, 392.11, 396.6396.10, 396.14, 396.15, 396.18396.21, 396.24396.29, 417.68, 417.69, 420.278, 420.285; C50, § 389.7, 391A.30, 392.11, 396.6396.10, 396.14, 396.15, 396.18396.21, 396.24396.29, 417.68, 417.69, 420.278, 420.285; C54, 58, 62, 66, 71, 73, § 389.7, 391A.33, 392.11, 396.6396.10, 396.14, 396.15, 396.18396.21, 396.24396.29, 417.68, 417.69, 420.278, 420.285; C75, 77, 79, 81, § 384.68]

### **384.69 Property sold at tax sale.**

Property against which a special assessment has been levied for public improvements may be sold for any sum of principal or interest due and delinquent, at any regular or adjourned tax sale in the same manner with the same forfeitures, interest, right of redemption, certificates, and deeds, as for the nonpayment of ordinary taxes. The purchaser at a tax sale, other than the county, takes the property charged with the lien of the remaining unpaid installments and interest. When bonds have been issued in anticipation of special assessments and interest for which property is to be sold, the city may be a purchaser and is entitled to all

rights of purchasers at tax sales. The proceeds subsequently realized from sales of property so purchased by the city must be credited to the funds of the city from which deficiencies on the improvement were paid, or if there were no deficiencies, to the general fund.

[C97, § 829, 976, 983; SS15, § 840-r; C24, 27, 31, 35, 39, § **60376040, 69096911, 6924**; C46, § 391.64391.67, 420.261420.263, 420.277; C50, § 391.64391.67, 391A.31, 420.261420.263, 420.277; C54, 58, 62, 66, 71, 73, § 391.64391.67, 391A.34, 420.261420.263, 420.277; C75, 77, 79, 81, § 384.69]

92 Acts, ch 1016, §11

### **384.70 Redemption by bondholder.**

A holder of a special assessment bond payable in whole or in part out of a special assessment against any lot or parcel of ground, or a city within which the lot or parcel of ground is situated, which lot or parcel of ground has been sold for taxes, either general or special, may have an assignment of any certificate of tax sale of the property for any general taxes or special taxes thereon, upon tender to the holder or to the county treasurer of the amount to which the holder of the tax sale certificate would be entitled in case of redemption.

[C97, § 816; S13, § 792-f, 816; C24, 27, 31, 35, 39, § **6041**; C46, 50, 54, 58, 62, 66, 71, 73, § 391.68; C75, 77, 79, 81, § 384.70]

97 Acts, ch 121, §13

### **384.71 Costs paid from applicable funds.**

The whole or any part of the cost of construction or repair of a public improvement may be paid from the proceeds of the issuance of general obligation bonds under the provisions of section 384.25 or 384.26, as applicable, or from the fund or funds of the city authorized to be used for the particular type of improvement, and the council shall provide that the tax authorized for purposes of the fund or funds must be annually levied to the full extent necessary to reimburse the fund or funds for the amount paid for the construction or repair of the improvement.

[R60, § 1064; C73, § 465; C97, § 751, 830, 831, 977, 978; S13, § 840-a, -d; SS15, § 751; C24, 27, 31, 35, 39, § **5940, 6042, 6050, 6125, 6916, 6917**; C46, § 389.3, 391.69, 391.75, 396.22, 420.269, 420.270; C50, § 389.3, 391.69, 391.75, 391A.32, 396.22, 420.269, 420.270; C54, 58, 62, § 389.3, 391.69, 391.75, 391A.35, 396.22, 420.269, 420.270; C66, 71, 73, § 389.3, 390A.18, 391.69, 391.75, 391A.35, 396.22, 420.269, 420.270; C75, 77, 79, 81, § 384.71]

### **384.72 Reassessment and relevy.**

When by reason of nonconformity to any law or resolution, or by reason of any omission, informality, or irregularity, any special tax or assessment levied is determined by the council to be invalid or is adjudged illegal, the council may correct the levy by resolution, and may reassess and relevy with the same force and effect as if done at the proper time and in the manner provided by law or by the resolution.

[C97, § 836, 980; S13, § 840-a; SS15, § 836, 840-r; C24, 27, § 6059, 6920; C31, 35, § 6059, 6610-c58, 6920; C39, § **6059, 6610.68, 6920**; C46, § 391.84, 417.62, 420.273; C50, § 391.84, 391A.33, 417.62, 420.273; C54, 58, 62, 66, 71, 73, § 391.84, 391A.36, 417.62, 420.273; C75, 77, 79, 81, § 384.72]

### **384.73 Void tax or assessment.**

When a special tax or assessment, upon property not exempt, is adjudged void for any jurisdictional defect, or other reason, the council may as to such property, by resolution, cause to be prepared a schedule and

proposed reassessment in proportion to and not in excess of benefits, cause notice to be given, hear objections, and make necessary corrections, and may reassess and relevel the tax or special assessment as corrected with the same force and effect as if jurisdiction had been acquired in the first instance and all subsequent proceedings had been regularly and legally had.

[SS15, § 836, 840-r; C24, 27, 31, 35, 39, § **6060**; C46, 50, 54, 58, 62, 66, 71, 73, § 391.85; C75, 77, 79, 81, § 384.73]

### **384.74 Correction of errors.**

When, in making a special assessment, any property is assessed too little or too much, the assessment may be corrected and a reassessment and relevel made in conformity with the correction, and a tax collected in excess of the proper amount must be refunded to the person paying it. Corrected assessments are a lien on the lots the same as the original assessments, must be certified by the clerk to the county treasurer in the same manner, and must so far as practicable, be collected in the same installments, draw interest at the same rate, and be enforced in the same manner as the original assessment.

However, if the city does not certify the assessments within six months of final publication as required by division IV of this chapter, all such assessments shall be null, void, and of no effect. Any bonds issued with such void assessments as security shall be paid by the city as they become due out of its debt service as provided in section 384.4.

[C97, § 837, 981; SS15, § 840-r; C24, § 6061, 6921; C31, 35, § 6061, 6610-c21, 6921; C39, § **6061, 6610.59, 6921**; C46, 50, 54, 58, 62, 66, 71, 73, § 391.86, 417.21, 420.274; C75, 77, 79, 81, § 384.74; 82 Acts, ch 1104, § 19]

### **384.75 Special provisions.**

Any provision of law, resolution, or ordinance specifying a time when or the order in which acts must be done in a proceeding which may result in a special assessment, is subject to the qualifications of sections 384.72 to 384.74.

A city may combine any one or more of the procedural acts required by this division and call for bids for construction of a public improvement and comply with legal requirements respecting public contracts so as to permit the council to receive and consider proposals at the time of hearing on the resolution of necessity.

[C97, § 838, 981; SS15, § 840-r; C24, 27, 31, 35, 39, § **6062, 6921**; C46, 50, 54, 58, 62, 66, 71, 73, § 391.87, 420.274; C75, 77, 79, 81, § 384.75]

### **384.76 Application to joint undertakings.**

The provisions of this division apply to any public improvement undertaken jointly by the city and another city or by the city and the state or any other political subdivision of the state, and a city may enter into an agreement for such purpose under the provisions of chapter 28E and may assess and pay its portion of the cost of a public improvement as provided in this division, but any requirement of this part in respect to approval of detailed plans and specifications, calling for construction bids, awarding construction contracts and acceptance of the completed improvement may be carried out by each city with other cities, the state or any other political subdivision of the state, as provided in an agreement entered into as permitted by chapter 28E. However, an agreement between the city and the state department of transportation is also governed by the provisions of sections 313.21 to 313.23.

[C50, § 391A.34; C54, 58, 62, 66, 71, 73, § 391A.37; C75, 77, 79, 81, § 384.76]

### **384.77 Assessments along railways.**

In the making of assessments for paving streets, avenues or public places along or upon which a track of a railway or street railway company is located, the engineer shall make an estimate of the cost of building the improvement, and an estimate of the cost of the improvement if tracks were not there. The railway or street railway company may be charged with the difference between the two estimates of cost, and shall make payment in the same manner as other special assessments are paid. This section applies only to track within the limits of the improvement proper and shall not be construed as exempting a railway or street railway company from a special assessment on other property, adjacent or abutting, within the assessment district and owned by the company, nor does this section relieve a company from any of its duties and liabilities set forth in any other law concerning repair or construction of the strip of paving between the rails and one foot outside.

[C31, 35, § 6051-c1; C39, § **6051.1**; C46, 50, § 391.77; C54, 58, 62, 66, 71, 73, § 391.77, 391A.38; C75, 77, 79, 81, § 384.77]

### **384.78 Prior proceedings.**

Projects and proceedings for the levy of special assessments and the issuance of special assessment bonds commenced before the effective date of the city code may be hereafter consummated and completed and special assessments levied and special assessment bonds issued as required or permitted by any statute or other law amended or repealed by 64GA, chapter 1088, as though such repeal or amendment had not occurred, and the rights, duties, and interests flowing from such projects and proceedings remain valid and enforceable. Without limiting the foregoing, projects commenced prior to said effective date may be financed by the issuance of special assessment bonds and other bonds under any such amended or repealed law or by the issuance of special assessment bonds, or other bonds under the city code. For the purposes of this section, commencement of a project includes but is not limited to action taken by the council or authorized officer to fix a date for a hearing in connection with any part of a public improvement, and commencement of proceedings for the levy of special assessments and the issuance of special assessment bonds includes but is not limited to action taken by the council to fix a date for a hearing in connection with any public improvement proposed to be financed in whole or in part through special assessments.

[C75, 77, 79, 81, § 384.78]

### **384.79 Conflicting provisions.**

The enumeration in this division of special powers and functions is not a limitation of the powers of cities, but the provisions of this division and the procedures prescribed for exercising the powers and functions enumerated in this division control and govern in the event of any conflict with the provisions of any other section, division or chapter of the city code or with the provisions of any other law.

[C75, 77, 79, 81, § 384.79]

### **384.80 Definitions.**

As used in this division, unless the context otherwise requires:

1. "*City enterprise*" means the same as defined in section 384.24.
2. "*Combined city enterprise*" means two or more city enterprises combined and operated as a single enterprise.
3. "*Combined service account*" means a customer service account for the provision of two or more utility or

enterprise services, regardless of whether those services are being provided by a single city, or by any combination of city utilities, combined utility systems, city enterprises, or combined city enterprises of one or more cities.

4. "*Combined utility system*" means two or more city utilities owned by a single city, and combined and operated as a single system.

5. "*Governing body*" means the public body which by law is charged with the management and control of a city utility, combined utility system, city enterprise, or combined city enterprise. The council is the governing body of each city utility, combined utility system, city enterprise, or combined city enterprise, except that a utility board, as provided in chapter 388, is the governing body of the city utility, city utilities or combined utility system which it operates.

6. "*Gross revenue*" means all income and receipts derived from the operation of a city utility, combined utility system, city enterprise, or combined city enterprise.

7. "*Landlord*" means the owner of record of a rental property, or a real estate manager or management company appointed by the owner to administer rental property.

8. "*Net revenues*" means gross revenues less operating expenses.

9. "*Operating expense*" means salaries, wages, cost of maintenance and operation, materials, supplies, insurance and all other items normally included under recognized accounting practices, but does not include allowances for depreciation in the value of physical property.

10. "*Owner*" means the owner of record as reflected in the records of the county treasurer.

11. "*Pledge order*" means a promise to pay out of the net revenues of a city utility, combined utility system, city enterprise, or combined city enterprise, which is delivered to the contractors or other persons in payment of all or part of the cost of the project.

12. "*Project*" means the acquisition, construction, reconstruction, extending, remodeling, improving, repairing, and equipping of all or part of a city utility, combined utility system, city enterprise, or combined city enterprise within or without the corporate limits of the city.

13. "*Rates*" means rates, fees, tolls, rentals and charges for the use of or service provided by a city utility, combined utility system, city enterprise, or combined city enterprise.

14. "*Revenue bond*" means a negotiable bond issued by a city and payable from the net revenues of a city utility, combined utility system, city enterprise, or combined city enterprise.

[C75, 77, 79, 81, § 384.80]

94 Acts, ch 1056, §1

### **384.81 Provisions of city code exclusive combined utility or enterprise.**

1. A city which proposes to establish, own, acquire by purchase, condemnation, or otherwise, lease, sell, construct, reconstruct, extend, remodel, improve, repair, equip, maintain and operate within or without its corporate limits a city utility, combined utility system, city enterprise, or combined city enterprise must do so in accordance with the provisions of the city code.

2. If all of the utilities involved in the establishment of a combined utility system are, at the time of

establishment, controlled and managed by the same utility board, such utility board shall continue as the governing body of the combined utility system; otherwise the city council is the governing body of a combined utility system, but a utility board for a combined utility system may be established as provided in chapter 388. If a combined utility system or combined city enterprise is dissolved, each city utility or city enterprise shall continue in existence as a separate city utility or city enterprise unless the voters additionally authorize the abandonment thereof. The governing body of a combined utility system which is dissolved shall continue as the governing body of each city utility which was a part of the combined utility system unless changed as provided in chapter 388. The adding of an additional city utility to an existing combined utility system is the establishment of a new combined utility system and must be approved by the voters of the city as provided in chapter 388, but the governing body of the existing combined utility system shall continue as the governing body of the new combined utility system.

3. A combined utility system or combined city enterprise may be established, but if there are obligations outstanding which by their terms are payable from the revenues of any city utility or city enterprise involved, all such outstanding obligations must be assumed by the governing body of the combined utility system or combined city enterprise subject to all terms established at the time of the original issue, or refunded through the issuance of revenue bonds of the combined utility system or combined city enterprise as a part of the procedure for the establishment of the combined utility system or combined city enterprise, or funds sufficient to pay the principal of and all interest and premium, if any, on such outstanding obligations at and prior to maturity must have been properly set aside and pledged for that purpose. Any revenues earmarked for payment of the obligations must be handled by the governing body of the combined utility or combined city enterprise in the same manner as they were handled by the governing body of the city utility or city enterprise involved. A city utility or city enterprise may not be abandoned and a combined utility system or combined city enterprise may not be dissolved so long as there are obligations outstanding which by their terms are payable from the revenues of the city utility, combined utility system, city enterprise, or combined city enterprise unless funds sufficient to pay the principal of and all interest and premium, if any, on such outstanding obligations at and prior to maturity have been properly set aside and pledged for such purpose.

[C73, § 471473; C97, § 720; S13, § 720; C24, 27, 31, 35, 39, § 6127; C46, 50, 54, § 390.1, 397.1; C58, 62, 66, 71, 73, § 386B.2, 390.1, 397.1; C75, 77, 79, 81, § 384.81]

### **384.82 Authority revenue bonds pledge orders.**

1. A city may carry out projects, borrow money, and issue revenue bonds and pledge orders to pay all or part of the cost of projects, such revenue bonds and pledge orders to be payable solely and only out of the net revenues of the city utility, combined utility system, city enterprise, or combined city enterprise involved in the project. The cost of a project includes the construction contracts, interest upon the revenue bonds and pledge orders during the period or estimated period of construction and for twelve months thereafter, or for twelve months after the acquisition date, such reserve funds as the governing body may deem advisable in connection with the project and the issuance of revenue bonds and pledge orders, and the costs of engineering, architectural, technical and legal services, preliminary reports, surveys, property valuations, estimates, plans, specifications, notices, acquisition of real and personal property, consequential damages or costs, easements, rights of way, supervision, inspection, testing, publications, printing and sale of bonds and provisions for contingencies. A city may sell revenue bonds or pledge orders at public or private sale in the manner prescribed by chapter 75 and may deliver revenue bonds and pledge orders to the contractors, sellers, and other persons furnishing materials and services constituting a part of the cost of the project in payment therefor.

A city may deliver its revenue bonds to the federal government or any agency thereof which has loaned the city money for sanitary or solid waste projects, water projects or other projects for which the government has a loan program.

2. A city may issue revenue bonds or pledge orders to refund revenue bonds, pledge orders, and other

obligations which are by their terms payable from the net revenues of the same city utility, combined utility system, city enterprise, or combined city enterprise, or from a city utility comprising a part of the combined utility system or a city enterprise comprising a part of the combined city enterprise, at lower, the same, or higher rates of interest. Upon a finding of necessity by the governing body, a city may issue revenue bonds or pledge orders to refund general obligation bonds to the extent the general obligation bonds were issued or the proceeds of them were expended for a city utility, city enterprise, or a portion of a combined city utility or city enterprise. These revenue bonds or pledge orders may be issued at lower, the same, or at higher rates of interest than the rates of the general obligation bonds being refunded. A city may sell refunding revenue bonds or pledge orders at public or private sale in the manner prescribed by chapter 75 and apply the proceeds to the payment of the obligations being refunded, and may exchange refunding revenue bonds or pledge orders in payment and discharge of the obligations being refunded. The principal amount of refunding revenue bonds or pledge orders may exceed the principal amount of the obligations being refunded to the extent necessary to pay a premium due on the call of the obligations being refunded, to fund interest accrued and to accrue on the obligations being refunded, to pay the costs of issuance of the refunding revenue bonds or pledge orders, and to fund such reserve funds as the governing body may deem advisable in connection with the issuance of the refunding revenue bonds or pledge orders.

[C31, § 6134-d1; C35, § 5903-f4, 6066-f6, 6134-d1, -f1; C39, § **5903.15, 6066.29, 6134.016134.03**; C46, § 385.4, 394.6, 397.9397.11; C50, § 385.4, 390.9, 394.6, 397.9397.11; C58, 62, 66, § 385.4, 386B.10, 390.9, 394.6, 397.9397.11; C71, 73, § 385.4, 386B.10, 390.9, 390.16, 394.6, 397.9397.11; C75, 77, 79, 81, § 384.82; 81 Acts, ch 126, § 1]

84 Acts, ch 1058, § 1

### **384.83 Procedures for revenue bonds and pledge orders.**

1. A city may issue revenue bonds pursuant to a resolution of the governing body of the city utility, combined utility system, city enterprise, or combined city enterprise, adopted at a regular or special meeting by a majority of the total number of members to which the governing body is entitled.

2. *a.* Before the governing body institutes proceedings for the issuance of revenue bonds, it shall fix a time and place of meeting at which it proposes to take action and give notice by publication in the manner directed in section 362.3. The notice must include a statement of the time and place of the meeting, the maximum amount of the proposed revenue bonds, the purpose or purposes for which the revenue bonds will be issued, and the city utility, combined utility system, city enterprise, or combined city enterprise whose net revenues will be used to pay the revenue bonds and interest on them. The governing body shall at the meeting receive oral or written objections from any resident or property owner of the city. After all objections have been received and considered, the governing body may, at the meeting or any adjournment of the meeting, take additional action for the issuance of the bonds or abandon the proposal to issue bonds. Any resident or property owner of the city may appeal a decision of the governing body to take additional action to the district court of the county in which any part of the city is located within fifteen days after the additional action is taken, but the additional action of the governing body is final and conclusive unless the court finds that the governing body exceeded its authority. The provisions of this subsection with respect to notice, hearing, and appeal in connection with the issuance of revenue bonds are in lieu of those contained in chapter 73A or any other law.

*b.* Separate purposes may be incorporated in a single notice of intention to institute proceedings or separate purposes may be incorporated in separate notices and, after an opportunity for filing objections, the governing body may include in a single issue of revenue bonds any number or combination of purposes.

3. Revenue bonds may bear dates, bear interest at rates not exceeding that permitted by chapter 74A, mature in one or more installments, be in either coupon or registered form, carry registration and conversion privileges, be payable as to principal and interest at times and places, be subject to terms of redemption prior

to maturity with or without premium, and be in one or more denominations, all as provided by the resolution of the governing body authorizing their issuance. The resolution may also prescribe additional provisions, terms, conditions, and covenants which the governing body deems advisable, consistent with the provisions of the city code, including provisions for creating and maintaining reserve funds, the issuance of additional revenue bonds ranking on a parity with such revenue bonds and additional revenue bonds junior and subordinate to such revenue bonds, and that such revenue bonds shall rank on a parity with or be junior and subordinate to any revenue bonds which may be then outstanding. Revenue bonds are a contract between the city and holders and the resolution is a part of the contract.

4. If the governing body is a city council, the revenue bonds must be executed by the mayor and clerk of the city. If the governing body is a utility board, the revenue bonds must be executed by the chairperson and secretary of the board. If coupons are attached to the revenue bonds, they must be executed with the original or facsimile signature of the clerk or secretary. A revenue bond is valid and binding for all purposes if it bears the signatures of the officers in office on the date of the execution of the bonds notwithstanding that any or all persons whose signatures appear thereon have ceased to be such officers prior to the delivery thereof. The issuance of revenue bonds must be recorded in the office of the city treasurer or other financial officer designated by the council, and a certificate of the recording by the treasurer or other officer must be printed on the back of each revenue bond.

5. Revenue bonds and pledge orders issued pursuant to this division are negotiable instruments.

6. A city may issue pledge orders pursuant to a resolution of the governing body of the city utility, combined utility system, city enterprise, or combined city enterprise, adopted by a majority of the total number of members to which the governing body is entitled, at a regular or special meeting, ordering their issuance and delivery in payment for all or part of the cost of a project. Pledge orders may bear interest at rates not exceeding that permitted by chapter 74A.

7. The physical properties of a city utility, combined utility system, city enterprise, or combined city enterprise may not be pledged or mortgaged to secure the payment of revenue bonds or pledge orders or the interest thereon.

[C35, § 5903-f4, 6066-f6, -f7; C39, § **5903.15, 6066.296066.31**; C46, 50, § 385.4, 394.6394.8; C58, 62, 66, 71, 73, § 385.4, 386B.10, 394.6394.8; C75, 77, 79, 81, § 384.83]

83 Acts, ch 90, § 26

### **384.84 Rates and charges billing and collection contracts.**

1. The governing body of a city utility, combined utility system, city enterprise, or combined city enterprise may establish, impose, adjust, and provide for the collection of rates and charges to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of the city utility, combined utility system, city enterprise, or combined city enterprise. When revenue bonds or pledge orders are issued and outstanding pursuant to this division, the governing body shall establish, impose, adjust, and provide for the collection of rates to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of the city utility, combined utility system, city enterprise, or combined city enterprise, and to leave a balance of net revenues sufficient to pay the principal of and interest on the revenue bonds and pledge orders as they become due and to maintain a reasonable reserve for the payment of principal and interest, and a sufficient portion of net revenues must be pledged for that purpose. Rates must be established by ordinance of the council or by resolution of the trustees, published in the same manner as an ordinance.

2. *a.* A city utility or enterprise service to a property or premises, including services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, water, solid waste disposal, or any of these services, may be discontinued if the account for the service becomes delinquent. Gas or electric service

provided by a city utility or enterprise shall be discontinued only as provided by section 476.20, and discontinuance of those services are subject to rules adopted by the utilities board of the department of commerce.

*b.* If more than one city utility or enterprise service is billed to a property or premises as a combined service account, all of the services may be discontinued if the account becomes delinquent.

*c.* A city utility or enterprise service to a property or premises shall not be discontinued unless prior written notice is sent to the account holder by ordinary mail, informing the account holder of the nature of the delinquency and affording the account holder the opportunity for a hearing prior to discontinuance of service. If the account holder is a tenant, and if the owner or landlord of the property has made a written request for notice, the notice shall also be given to the owner or landlord.

*d.* If a delinquent amount is owed by an account holder for a utility service associated with a prior property or premises, a city utility, city enterprise, or combined city enterprise may withhold service from the same account holder at any new property or premises until such time as the account holder pays the delinquent amount owing on the account associated with the prior property or premises.

3. *a.* Except as provided in paragraph "*d*", all rates or charges for the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, water, solid waste disposal, or any of these services, if not paid as provided by ordinance of the council or resolution of the trustees, are a lien upon the property or premises served by any of these services upon certification to the county treasurer that the rates or charges are due.

*b.* This lien may be imposed upon a property or premises even if a city utility or enterprise service to the property or premises has been or may be discontinued as provided in this section.

*c.* A lien for a city utility or enterprise service under paragraph "*a*" shall not be certified to the county treasurer for collection unless prior written notice of intent to certify a lien is given to the account holder of the delinquent account at least thirty days prior to certification. If the account holder is a tenant, and if the owner or landlord of the property has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than thirty days prior to certification of the lien to the county treasurer.

*d.* Residential rental property where a charge for water service is separately metered and paid directly to the city utility or enterprise by the tenant is exempt from a lien for delinquent rates or charges associated with such water service if the landlord gives written notice to the city utility or enterprise that the property is residential rental property and that the tenant is liable for the rates or charges. A city utility or enterprise may require a deposit not exceeding the usual cost of ninety days of water service to be paid to the utility or enterprise. Upon receipt, the utility or enterprise shall acknowledge the notice and deposit. A written notice shall contain the name of the tenant responsible for charges, address of the residential rental property that the tenant is to occupy, and the date that the occupancy begins. A change in tenant shall require a new written notice to be given to the city utility or enterprise within ten business days of the change in tenant. When the tenant moves from the rental property, the city utility or enterprise shall return the deposit if the water service charges are paid in full. A change in the ownership of the residential rental property shall require written notice of such change to be given to the city utility or enterprise within ten business days of the completion of the change of ownership. The lien exemption for rental property does not apply to charges for repairs to a water service if the repair charges become delinquent.

4. A lien shall not be imposed pursuant to this section for a delinquent charge of less than five dollars. The governing body of the city utility or enterprise may charge up to five dollars, and the county treasurer may charge up to five dollars, as an administrative expense of certifying and filing this lien, which amounts shall be added to the amount of the lien to be collected at the time of payment of the assessment from the payor.

Administrative expenses collected by the county treasurer on behalf of the city utility or enterprise shall be paid to the governing body of the city utility or enterprise, and those collected by the county treasurer on behalf of the county shall be credited to the county general fund. The lien has equal precedence with ordinary taxes, may be certified to the county treasurer and collected in the same manner as taxes, and is not divested by a judicial sale.

5. A governing body may declare all or a certain portion of a city as a storm water drainage system district for the purpose of establishing, imposing, adjusting, and providing for the collection of rates as provided in this section. The ordinance provisions for collection of rates of a storm water drainage system may prescribe a formula for determination of the rates which may include criteria and standards by which benefits have been previously determined for special assessments for storm water public improvement projects under this chapter.

6. *a.* The governing body of a city utility, combined utility system, city enterprise, or combined city enterprise may:

(1) By ordinance of the council or by resolution of the trustees published in the same manner as an ordinance, establish, impose, adjust, and provide for the collection of charges for connection to a city utility or combined utility system.

(2) Contract for the use of or services provided by a city utility, combined utility system, city enterprise, or combined city enterprise with persons whose type or quantity of use or service is unusual.

(3) Lease for a period not to exceed fifteen years all or part of a city enterprise or combined city enterprise, if the lease will not reduce the net revenues to be produced by the city enterprise or combined city enterprise.

(4) Contract for a period not to exceed forty years with other governmental bodies for the use of or the services provided by the city utility, combined utility system, city enterprise, or combined city enterprise on a wholesale basis.

(5) Contract for a period not to exceed forty years with persons and other governmental bodies for the purchase or sale of water, gas, or electric power and energy on a wholesale basis.

*b.* Two or more city utilities, combined utility systems, city enterprises, or combined city enterprises, including city utilities established pursuant to chapter 388, may contract pursuant to chapter 28E for joint billing or collection, or both, of combined service accounts for utility or enterprise services, or both. The contracts may provide for the discontinuance of one or more of the city utility or enterprise services if a delinquency occurs in the payment of any charges billed under a combined service account.

*c.* One or more city utilities or combined utility systems, including city utilities established pursuant to chapter 388, may contract pursuant to chapter 28E with one or more sanitary districts established pursuant to chapter 358 for joint billing or collection, or both, of combined service accounts from utility services and sanitary district services. The contracts may provide for the discontinuance of one or more of the city water utility services or sanitary district services if a delinquency occurs in the payment of any charges billed under a combined service account.

7. The portion of cost attributable to the agreement or arbitration awarded under section 357A.21 may be apportioned in whole or in part among water customers within an annexed area.

8. For the purposes of this section, "*premises*" includes a mobile home, modular home, or manufactured home as defined in section 435.1, when the mobile home, modular home, or manufactured home is taxed as real estate.

9. Notwithstanding subsection 3, a lien shall not be filed against the land if the premises are located on leased land. If the premises are located on leased land, a lien may be filed against the premises only.

[C73, § 471, 473, 475; C97, § 720, 725, 749; S13, § 720, 724, 725, 766-c; C24, 27, 31, § 5892, 5898, 6130, 6142, 6143, 6159; C35, § 5892, 5898, 5903-f3, 5903-f6, 6066-f5, 6066-f8, 6130, 6142, 6143, 6159; C39, § **5892, 5898, 5903.14, 5903.17, 6066.28, 6066.32, 6130, 6142, 6143, 6159**; C46, 50, 54, § 381.19, 382.5, 385.3, 385.6, 390.4, 390.5, 394.5, 394.9, 397.4, 397.27, 397.28, 398.10; C58, § 381.19, 382.5, 385.3, 385.6, 386B.8, 390.4, 390.5, 394.5, 394.9, 397.4, 397.27, 397.28, 398.10; C62, § 381.15, 382.5, 385.3, 385.6, 386B.8, 390.4, 390.5, 392.11, 394.5, 394.9, 397.4, 397.27, 397.28; C66, § 368.24, 381.19, 382.5, 385.3, 385.6, 386B.8, 390.4, 390.5, 392.11, 394.5, 394.9, 397.4, 397.27, 397.28, 398.10; C71, 73, § 368.24, 378A.7378A.9, 381.19, 382.5, 385.3, 385.6, 386B.8, 390.4, 390.5, 392.11, 393.14, 394.5, 394.9, 397.4, 397.27, 397.28, 398.10; C75, 77, 79, 81, § 384.84; 81 Acts, ch 128, § 1]

83 Acts, ch 90, § 27; 84 Acts, ch 1221, § 1; 87 Acts, ch 109, §4; 88 Acts, ch 1246, §6; 90 Acts, ch 1206, §2; 90 Acts, ch 1211, § 1; 93 Acts, ch 73, § 4; 94 Acts, ch 1056, §2; 95 Acts, ch 49, §11; 95 Acts, ch 57, §9; 95 Acts, ch 67, §31; 97 Acts, ch 62, § 3; 98 Acts, ch 1107, §15; 99 Acts, ch 149, §1, 2; 2000 Acts, ch 1085, §4; 2003 Acts, 1st Ex, ch 2, §19, 209

### **384.84A Special election.**

1. The governing body of a city may institute proceedings to issue revenue bonds for storm water drainage construction projects under section 384.84, subsection 5, by causing notice of the proposed project, with a description of the proposed project and a description of the formula for the determination of the rate or rates applied to users for payment of the bonds, and a description of the bonds and maximum rate of interest and the right to petition for an election if the project meets the requirement of subsection 2, to be published at least once in a newspaper of general circulation within the city at least thirty days before the meeting at which the governing body proposes to take action to institute proceedings for issuance of revenue bonds for the storm water drainage construction project.

2. If, before the date fixed for taking action to authorize the issuance of revenue bonds for the storm water drainage construction project, a petition signed by eligible electors residing within the city equal in number to at least three percent of the registered voters of the city is filed, asking that the question of issuing revenue bonds for the storm water drainage construction project be submitted to the registered voters of the city, the council, by resolution, shall declare the project abandoned or shall direct the county commissioner of elections to call a special election upon the question of issuing the bonds for the storm water drainage construction project if the cost of the project and population of the city meet one of the following criteria:

a. The project cost is seven hundred fifty thousand dollars or more in a city having a population of five thousand or less.

b. The project cost is one million five hundred thousand dollars or more in a city having a population of more than five thousand but not more than seventy-five thousand.

c. The project cost is two million dollars or more in a city having a population of more than seventy-five thousand.

3. The proposition of issuing revenue bonds for a storm water drainage construction project under this section is not approved unless the vote in favor of the proposition is equal to a majority of the votes cast on the proposition.

4. If a petition is not filed, or if a petition is filed and the proposition is approved at an election, the council may issue the revenue bonds.

5. If a city is required by the federal environmental protection agency to file application for storm water sewer discharge or storm water drainage system under the federal Clean Water Act of 1987, this section does not apply to that city with respect to improvements and facilities required for compliance with EPA regulations, or any city that enters into a chapter 28E agreement to implement a joint storm water discharge or drainage system with a city that is required by the federal environmental protection agency to file application for storm water discharge or storm water drainage system.

90 Acts, ch 1206, §3; 95 Acts, ch 67, §53; 2001 Acts, ch 56, §33; 2002 Acts, ch 1119, §52

### **384.85 Records accounts deposits.**

1. The governing body of each city utility, combined utility system, city enterprise, or combined city enterprise being operated on a revenue producing basis shall maintain a proper system of books, records, and accounts.

2. The gross revenues of each city utility, combined utility system, city enterprise, or combined city enterprise must be deposited with the treasurer of the governing body and kept by the treasurer in a separate account apart from the other funds of the city and from each other. The treasurer shall apply the gross revenues of each city utility, combined utility system, city enterprise, or combined city enterprise only as ordered by the governing body and in strict compliance with such orders, including the provisions, terms, conditions, and covenants of any and all resolutions of the governing body pursuant to which revenue bonds or pledge orders are issued and outstanding. If the council is the governing body, it may designate another city officer to serve as treasurer.

[C97, § 748; S13, § 741-w2, 748; C24, 27, 31, 35, 39, § 5902, 6158; C46, 50, 54, 58, 62, 66, 71, 73, § 384.3(12), 398.9; C75, 77, 79, 81, § 384.85]

### **384.86 Pledge valid and effective.**

The pledge of any net revenues of a city utility, combined utility system, city enterprise, or combined city enterprise is valid and effective as to all persons and other governmental bodies when it becomes valid and effective between the city and the holders of the revenue bonds or pledge orders.

[C75, 77, 79, 81, § 384.86]

### **384.87 Payable from revenues.**

Revenue bonds and pledge orders are payable both as to principal and interest solely out of the portion of the net revenues of the city utility, combined utility system, city enterprise, or combined city enterprise pledged to their payment and are not a debt of or charge against the city within the meaning of any constitutional or statutory debt limitation provision.

[C58, 62, 66, 71, 73, § 386B.10; C75, 77, 79, 81, § 384.87]

### **384.88 Sole remedy.**

The sole remedy for a breach or default of a term of a revenue bond or pledge order is a proceeding in law or in equity by suit, action or mandamus to enforce and compel performance of the duties required by this division and of the terms of the resolution authorizing the issuance of the revenue bonds or pledge orders, or to obtain the appointment of a receiver to take possession of and operate the city utility, combined utility system, city enterprise, or combined city enterprise, and to perform the duties required by this division and the terms of the resolution authorizing the issuance of the revenue bonds or pledge orders.

[C58, 62, 66, 71, 73, § 386B.10; C75, 77, 79, 81, § 384.88]

### **384.89 Transfer of surplus.**

The governing body of a city utility, combined utility system, city enterprise, or combined city enterprise which has on hand surplus funds, after making all deposits into all funds required by the terms, covenants, conditions, and provisions of outstanding revenue bonds, pledge orders, and other obligations which are payable from the revenues of the city utility, combined utility system, city enterprise, or combined city enterprise and after complying with all of the requirements, terms, covenants, conditions and provisions of the proceedings and resolutions pursuant to which revenue bonds, pledge orders, and other obligations are issued, may transfer such surplus funds to any other fund of the city in accordance with any rules promulgated by the city finance committee created in section 384.13 if the transfer is also approved by the city council, provided that no transfer may be made if it conflicts with any of the requirements, terms, covenants, conditions or provisions of any resolution authorizing the issuance of revenue bonds, pledge orders, or other obligations which are payable from the revenues of the city utility, combined utility system, city enterprise, or combined city enterprise which are then outstanding.

[C27, 31, 35, § 6151-b16151-b3, 6151-c1; C39, § **6151.16151.4**; C46, 50, 54, 58, 62, 66, 71, 73, § 397.38397.41; C75, 77, 79, 81, § 384.89]

### **384.90 Part payment from other bonds and other sources.**

This division does not prohibit or prevent a city from using funds derived from the issuance of general obligation bonds, the levy of special assessments and the issuance of special assessment bonds, and any other source which may be properly used for such purpose, to pay a part of the cost of a project.

[C75, 77, 79, 81, § 384.90]

### **384.91 City to pay for services.**

The city shall pay for the use of or the services provided by the city utility, combined utility system, city enterprise, or combined city enterprise as any other customer, except that the city may pay for use or service at a reduced rate or receive free use or service so long as the city complies with the provisions, terms, conditions and covenants of any and all resolutions pursuant to which revenue bonds or pledge orders are issued and outstanding.

[C75, 77, 79, 81, § 384.91]

### **384.92 Statute of limitation.**

No action may be brought which questions the legality of revenue bonds or the power of the city to issue revenue bonds or the effectiveness of any proceedings relating to the authorization and issuance of revenue bonds, from and after sixty days from the time the bonds are ordered issued by the city.

[C97, § 913; C24, 27, 31, 35, 39, § **6264**; C46, 50, 54, 58, 62, 66, 71, 73, § 408.15; C75, 77, 79, 81, § 384.92]

### **384.93 Conflicting provisions.**

The enumeration in this division of specified powers and functions is not a limitation of the powers of cities, but the provisions of this division and the procedures prescribed for exercising the powers and functions enumerated in this division control and govern in the event of any conflict with the provisions of any other section, division or chapter of the city code or with the provisions of any other law.

[C75, 77, 79, 81, § 384.93]

### **384.94 Prior projects preserved.**

Projects and proceedings for the issuance of revenue bonds, pledge orders, and other temporary obligations commenced before the effective date of the city code may be consummated and completed as required or permitted by any statute or other law amended or repealed by 64GA, chapter 1088, as though such repeal or amendment had not occurred, and the rights, duties, and interests flowing from such projects and proceedings remain valid and enforceable. Without limiting the foregoing, projects commenced prior to said effective date may be financed by the issuance of revenue bonds, pledge orders, and other temporary obligations under any such amended or repealed law or by the issuance of revenue bonds and pledge orders under the city code. For purposes of this section, commencement of a project includes, but is not limited to, action taken by the governing body or authorized officer to fix a date for either a hearing or an election in connection with any part of the project, and commencement of proceedings for the issuance of revenue bonds, pledge orders, and other temporary obligations includes, but is not limited to, action taken by the governing body to fix a date for either a hearing or a sale in connection with any part of such revenue bonds, pledge orders, or other temporary obligations or to order any part thereof to be issued.

[C75, 77, 79, 81, § 384.94]

### **384.95 Definitions.**

As used in this division, unless the context clearly indicates otherwise:

1. "*Public improvement*" means any building or construction work, either within or outside the corporate limits of a city, to be paid for in whole or in part by the use of funds of the city, regardless of sources, including a building or improvement constructed or operated jointly with any other public or private agency, but excluding urban renewal demolition and low-rent housing projects, industrial aid projects authorized under chapter 419, emergency work or work performed by employees of a city or a city utility.
2. "*Governing body*" means the council of a city, a utility board of trustees or an administrative agency which is charged with the management and control of a building or improvement project.

[C75, 77, 79, 81, § 384.95]

2000 Acts, ch 1174, §29

### **384.96 Sealed bids.**

When the estimated total cost to a city of a public improvement exceeds the sum of twenty-five thousand dollars, the governing body shall advertise for sealed bids for the proposed improvement by publishing a notice to bidders as provided in section 362.3, except that the notice to bidders may be published more than twenty days but not more than forty-five days before the date for filing bids.

[C58, 62, 66, 71, 73, § 386B.9; C75, 77, 79, 81, § 384.96]

92 Acts, ch 1030, §1

### **Footnotes**

Analogous provision, § 73A.18

### **384.97 Notice to bidders.**

The notice to bidders must state the following items:

1. The time and place for filing sealed proposals.
2. The time and place sealed proposals will be opened and considered on behalf of the governing body.
3. The general nature of the public improvement on which bids are requested.
4. In general terms when the work must be commenced and when it must be completed.
5. That each bidder shall accompany the bid with a bid security as defined in this subsection and as specified by the governing body, as security that the successful bidder will enter into a contract for the work bid upon and will furnish after the award of contract a corporate surety bond, acceptable to the governing body, for the faithful performance of the contract, in an amount equal to one hundred percent of the amount of the contract. The bidder's security shall be in an amount fixed by the governing body, and shall be in the form of a cashier's or certified check drawn on a bank in Iowa or a bank chartered under the laws of the United States, or a certified share draft drawn on a credit union in Iowa or chartered under the law of the United States, or the governing body may provide for a bidder's bond with corporate surety satisfactory to the governing body. The bid bond shall contain no condition except as provided in this section.
6. Any further information which the governing body deems pertinent.

The notice to bidders may provide that bids will be received for the furnishing of all labor and materials and furnishing or installing equipment under one contract, or for parts thereof in separate sections.

On public improvements to be financed wholly or partially by special assessments against benefited property, the governing body, in the notice to bidders, may request aggregate bids for all projects included in any resolution of necessity, notwithstanding variations in the sizes of the improvements and notwithstanding that some parts of the improvements are assessable and some nonassessable, and may award the contract to the lowest responsible bidder submitting the lowest aggregate bid.

[C97, § 813, 815; S13, § 840-a, 849-d; SS15, § 813; C24, 27, § 60046006, 60846086, 6088; C31, 35, § 60046006, 60846086, 6088, 6134-d5, 6610-c48; C39, § **60046006, 60846086, 6088, 6134.09, 6610.50**; C46, § 391.31391.33, 395.6395.8, 395.10, 397.17, 417.51; C50, § 391.31391.33, 391A.13, 391A.14, 395.6395.8, 395.10, 397.17, 417.51; C54, § 391.31391.33, 391A.16, 391A.17, 395.6395.8, 395.10, 397.17, 417.51; C58, 62, 66, 71, 73, § 386B.9, 391.31391.33, 391A.16, 391A.17, 395.6395.8, 395.10, 397.17, 417.51; C75, 77, 79, 81, § 384.97]

84 Acts, ch 1055, § 9

### **384.98 Bid security.**

The amount of bid security must be fixed by the governing body prior to ordering publication of the notice to bidders and must equal at least five percent, but may not exceed ten percent of either the estimated total contract cost of the public improvement, or the amount of each bid.

[C97, § 813; SS15, § 813; C24, 27, 31, 35, 39, § **6004**; C46, § 391.31; C50, § 391.31, 391A.13; C54, 58, 62, 66, 71, 73, § 391.31, 391A.16; C75, 77, 79, 81, § 384.98]

### **384.99 Award of contract.**

The contract for the public improvement must be awarded to the lowest responsible bidder, provided, however, that contracts relating to public utilities or extensions or improvements thereof, as described in

division V of this chapter, may be awarded by the governing body as it deems to be in the best interests of the city. This section shall not be construed to prohibit a city in the award of a contract for a public improvement or a governing body of a city utility from providing, in the award of a contract for a public improvement, an enhancement of payments upon early completion of the public improvement if the availability of the enhancement payments is included in the notice to bidders, the enhancement payments are competitively neutral to potential bidders, the enhancement payments are considered as a separate item in the public hearing on the award of contract, and the total value of the enhancement payments does not exceed ten percent of the value of the contract.

[C97, § 813; SS15, § 813; C24, 27, § 6004; C31, 35, § 6004, 6134-d6, 6610-c48; C39, § **6004, 6134.10, 6610.50**; C46, § 391.31, 397.18, 417.51; C50, § 391.31, 391A.14, 397.18, 417.51; C54, 58, 62, 66, 71, 73, § 391.31, 391A.17, 397.18, 417.51; C75, 77, 79, 81, § 384.99]

99 Acts, ch 137, §1

### **384.100 Opening and considering bids.**

The governing body shall open, announce the amount of the bids, and file all proposals received, at the time and place specified in the notice to bidders. The governing body may, by resolution, award the contract for the public improvement to the bidder submitting the best bid, determined as provided in section 384.99, or it may reject all bids received, fix a new date for receiving bids, and order publication of a new notice to bidders. The bid security furnished by the successful bidder must be retained by the governing body until the approved contract form has been executed, and a bond filed by the bidder guaranteeing the performance of the contract, and the contract and bond, have been approved by the governing body. The provisions of chapter 573, where applicable, apply to contracts awarded under this division.

The checks or bidder's bonds of the unsuccessful bidder must be promptly returned to the bidders by the governing body as soon as the successful bidder is determined or within thirty days whichever is sooner.

[C97, § 813; S13, § 849-d; SS15, § 813; C24, 27, § 6005, 6086; C31, 35, § 6005, 6086, 6610-c48, 6610-c49; C39, § **6005, 6086, 6610.50, 6610.51**; C46, § 391.32, 395.8, 417.51, 417.52; C50, § 391.32, 391A.14, 391A.15, 395.8, 417.51, 417.52; C54, § 391.32, 391A.17, 391A.19, 395.8, 417.51, 417.52; C58, 62, 66, 71, 73, § 386B.9, 391.32, 391A.17, 391A.19, 395.8, 417.51, 417.52; C75, 77, 79, 81, § 384.100]

### **384.101 Delegation of authority.**

When bids or proposals are required to be taken in connection with any public improvement, the governing body may delegate, by ordinance or resolution, to the city manager, clerk, engineer, or other public officer, the duty of receiving and opening bids and announcing the results. The officer shall report the results of the bidding with the officer's recommendations thereon to the governing body at its next meeting.

[C66, 71, 73, § 368A.1(14); C75, 77, 79, 81, § 384.101]

### **384.102 When hearing necessary.**

When the estimated total cost of a public improvement exceeds the sum of twenty-five thousand dollars, the governing body shall not enter into a contract for the improvement until it has held a public hearing on the proposed plans, specifications, and form of contract, and estimated cost for the improvement. Notice of the hearing must be published as provided in section 362.3. At the hearing any interested person may appear and file objections to the proposed plans, specifications, contract, or estimated cost of the improvement. After hearing objections, the governing body shall by resolution enter its decision on the plans, specifications, contract, and estimated cost.

[C31, 35, § 6134-d4, 6134-d6; C39, § **6134.08, 6134.10**; C46, 50, 54, 58, 62, 66, 71, 73, § 397.16, 397.18; C75, 77, 79, 81, § 384.102]

## Footnotes

Analogous provision, § 73A.2, 73A.3

### **384.103 Bonds authorized.**

1. A governing body may authorize, sell, issue, and deliver its bonds whether or not notice and hearing on the plans, specifications, form of contract, and estimated cost for the public improvement to be paid for in whole or in part from the proceeds of said bonds has been given, and whether or not a contract has been awarded for the construction of the improvement. This subsection does not apply to bonds which are payable solely from special assessment levies against benefited property.

2. When emergency repair of a public improvement is necessary and the delay of advertising and a public letting might cause serious loss or injury to the city, the governing body shall, by resolution, make a finding of the necessity to institute emergency proceedings under this section, and shall procure a certificate from a competent registered professional engineer or architect, not in the regular employ of the city, certifying that emergency repairs are necessary.

In that event the governing body may contract for emergency repairs without holding a public hearing and advertising for bids, and the provisions of sections 384.96 to 384.102, do not apply.

[C75, 77, 79, 81, § 384.103]

## Footnotes

Analogous provision, § 73A.19

**384.104 through 384.109** Reserved.

### **384.110 Insurance, self-insurance, and risk pooling funds.**

A city may credit funds to a fund or funds for the purposes authorized by section 364.4, subsection 5; section 384.12, subsection 18; or section 384.24, subsection 3, paragraph "s". Moneys credited to the fund or funds, and interest earned on such moneys, shall remain in the fund or funds until expended for purposes authorized by section 364.4, subsection 5; section 384.12, subsection 18; or section 384.24, subsection 3, paragraph "s".

86 Acts, ch 1211, § 25

**384.111 through 384.119** Reserved.

### **384.120 Definitions.**

As used in this chapter, unless the context otherwise requires, "*book*", "*list*", "*record*", or "*schedule*" kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.

2000 Acts, ch 1148, § 1