CHAPTER 362

DEFINITIONS AND MISCELLANEOUS PROVISIONS

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362.1 Citation.

This chapter and chapters 364, 368, 372, 376, 380, 384, 388 and 392 may be cited as the *"City Code of Iowa"*.

[C75, 77, 79, 81, §362.1]

362.2 Definitions.

As used in the city code of Iowa, unless the context otherwise requires:

1. *"Administrative agency"* means an agency established by a city for any city purpose or for the administration of any city facility, as provided in chapter 392, except a board established to administer a municipal utility, a zoning commission and zoning board of adjustment, or any other agency which is controlled by state law. An administrative agency may be designated as a board, board of trustees, commission, or by another title. If an agency is advisory only, such a designation must be included in its title.
2. *"Amendment"* means a revision or repeal of an existing ordinance or code of ordinances.
3. *"Charter"* means the form of government selected by a city as provided in chapter 372.
4. *"City"* means a municipal corporation, but not including a county, township, school district, or any special-purpose district or authority. When used in relation to land area, "city" includes only the area within the city limits.
5. *"City code"* means the city code of Iowa.
6. *"City utility"* means all or part of a waterworks, gasworks, sanitary sewage system, storm water drainage system, electric light and power plant and system, heating plant, cable communication or television system, telephone or telecommunications systems or services offered separately or combined with any system or service specified in this subsection or authorized by other law, any of which are owned by a city, including all land, easements, rights-of-way, fixtures, equipment, accessories, improvements, appurtenances, and other property necessary or useful for the operation of the utility.
7. *"Clerk"* means the recording and recordkeeping officer of a city regardless of title.
8. *"Council"* means the governing body of a city.
9. *"Council member"* means a member of a council, including an alderman.
10. *"Eligible elector"* means the same as it is defined in section 39.3, subsection 6.
11. *"Governmental body"* means the United States of America or an agency thereof, a state, a political subdivision of a state, a school corporation, a public authority, a public district, or any other public body.
12. *"May"* confers a power.
13. *"Measure"* means an ordinance, amendment, resolution, or motion.
14. *"Must"* states a requirement.
15. *"Officer"* means a natural person elected or appointed to a fixed term and exercising some portion of the power of a city.
16. *"Ordinance"* means a city law of a general and permanent nature.
17. *"Person"* means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust, or other legal entity, and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.
18. *"Property"*, *"real property"*, and *"personal property"* have the same meaning as provided in section 4.1.
19. *"Recorded vote"* means a record, roll call vote.

20. *"Registered voter"* means the same as it is defined in section 39.3, subsection 11.

21. *"Resolution"* or *"motion"* means a council statement of policy or a council order for action to be taken, but "motion" does not require a recorded vote.

22. *"Secretary"* of a utility board means the recording and recordkeeping officer of the utility board regardless of title.

23. *"Shall"* imposes a duty.

[C50, §391A.1; C54, 58, 62, 66, 71, 73, §363A.2, 391A.1; C75, 77, 79, 81, §362.2]

90 Acts, ch 1206, §1; 93 Acts, ch 153, §1; 94 Acts, ch 1169, §65; 99 Acts, ch 63, §2, 8

Referred to in §28J.1, 169C.1, 200.22, 206.34, 364.4, 386.1, 390.1, 403.7, 592.9, 717.1, 717B.1

362.3 Publication of notices.

Unless otherwise provided by state law:

1. If notice of an election, hearing, or other official action is required by the city code, the notice must be published at least once, not less than four nor more than twenty days before the date of the election, hearing, or other action.

2. A publication required by the city code must be 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, or in the case of ordinances and amendments to be published in a city in which no newspaper is published, a publication may be made by posting in three public places in the city which have been permanently designated by ordinance.

In the case of notices of elections, a city with a population of two hundred or less meets the publication requirement of this section by posting notices of elections in three public places which have been designated by ordinance.

[R60, §1133; C73, §492; C97, §686, 687; C24, 27, 31, 35, §5720, 5721, 5721-a1; C39, §**5720, 5721, 5721.1;** C46, 50, §366.7 – 366.9; C54, 58, 62, 66, 71, 73, §366.7; C75, 77, 79, 81, §362.3]

93 Acts, ch 143, §48; 94 Acts, ch 1180, §50

Referred to in §26.12, 26.15, 37.4, 330.18, 336.13, 336.16, 364.2, 364.7, 364.12, 368.2, 368.3, 368.15, 368.20, 372.4, 372.9, 372.13, 376.5, 380.7, 380.8, 380.10, 384.12, 384.22, 384.25, 384.37, 384.38, 384.40, 384.50, 384.60, 384.83, 386.3, 392.7, 403.9, 404.2, 404B.2, 404B.3, 414.4, 427B.1, 427B.20, 427B.26

362.4 Petition of eligible electors.

If a petition of the voters is authorized by the city code, the petition is valid if signed by eligible electors of the city equal in number to ten percent of the persons who voted at the last preceding regular city election, but not less than ten persons, unless otherwise provided by state law. The petition shall include the signatures of the petitioners, a statement of their place of residence, and the date on which they signed the petition.

The petition shall be examined before it is accepted for filing. If the petition appears valid on its face it shall be accepted for filing. If it lacks the required number of signatures it shall be returned to the petitioner.

Petitions which have been accepted for filing are valid unless written objections are filed with the city clerk within five working days after the petition is received. The objection process in section 44.8 shall be followed.

[C75, 77, 79, 81, §362.4]

89 Acts, ch 136, §70; 94 Acts, ch 1180, §51

Referred to in §28E.17, 37.2, 43.112, 330.17, 364.2, 364.4, 368.3, 372.4, 372.6, 372.11, 372.13, 376.2, 384.7, 384.12, 384.24A, 384.26, 388.2, 389.2, 392.5

362.5 Interest in public contract prohibited — exceptions.

When used in this section, *"contract"* means any claim, account, or demand against or agreement with a city, express or implied.

A city officer or employee shall not have an interest, direct or indirect, in any contract or job of work or material or the profits thereof or services to be furnished or performed for the officer's or employee's city. A contract entered into in violation of this section is void. The provisions of this section do not apply to:

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

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

3. An employee of a bank or trust company, who serves as treasurer of a city.

4. Contracts made by a city, upon competitive bid in writing, publicly invited and opened.

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

6. The designation of an official newspaper.

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

8. Contracts with volunteer fire fighters or civil defense volunteers.

9. A contract with a corporation in which a city officer or employee has an interest by reason of stockholdings when less than five percent of the outstanding stock of the corporation is owned or controlled directly or indirectly by the officer or employee or the spouse or immediate family of such officer or employee.

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

11. Contracts not otherwise permitted by this section for the purchase of goods or services by a city having a population of two thousand five hundred or less, which benefit a city officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of two thousand five hundred dollars in a fiscal year.

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

13. A contract that is a bond, note, or other obligation of the city and the contract is not acquired directly from the city, but is acquired in a transaction with a third party who may or may not be the original underwriter, purchaser, or obligee of the contract.

[R60, §1122; C73, §490; C97, §943; S13, §668, 879-q, 1056-a31; C24, 27, 31, 35, 39, §**5673, 6534, 6710;** C46, 50, §363.47, 416.58, 420.20; C54, 58, 62, 66, 71, 73, §368A.22; C75, 77, 79, 81, §362.5]

84 Acts, ch 1228, §1, 2; 87 Acts, ch 203, §1, 2; 88 Acts, ch 1246, §2, 3; 90 Acts, ch 1209, §5, 6; 91 Acts, ch 60, §1, 2; 92 Acts, ch 1036, §1; 2003 Acts, ch 36, §4, 5

Referred to in §372.13

362.6 Conflict of interest.

A measure voted upon is not invalid by reason of conflict of interest in an officer of a city, unless the vote of the officer was decisive to passage of the measure. If a specific majority or unanimous vote of a municipal body is required by statute, the majority or vote must be computed on the basis of the number of officers not disqualified by reason of conflict of interest. However, a majority of all members is required for a quorum. For the purposes of this section, the statement of an officer that the officer declines to vote by reason of conflict of interest is conclusive and must be entered of record.

[C71, 73, §368A.25; C75, 77, 79, 81, §362.6]

362.7 Prior measures valid.

A valid measure adopted by a city prior to July 1, 1975, remains valid unless the measure is irreconcilable with the city code.

[C75, 77, 79, 81, §362.7]

362.8 Construction.

The city code, being necessary for the public safety and welfare, shall be liberally construed to effectuate its purposes.

[C75, 77, 79, 81, §362.8]

362.9 Application of city code.

The provisions of this chapter and chapters 364, 368, 372, 376, 380, 384, 388 and 392 are applicable to all cities.

[C75, 77, 79, 81, §362.9]

362.10 Police officers and fire fighters.

The maximum age for a police officer, marshal, or fire fighter employed for police duty or the duty of fighting fires is sixty-five years of age. This section shall not apply to volunteer fire fighters.

[C35, §6326-f6; C39, §**6326.08;** C46, 50, 54, 58, 62, §411.6; C66, 71, 73, 75, 77, 79, §410.6, 411.6; C81, §362.10]

98 Acts, ch 1183, §113

362.11 Elections on public measures.

Unless otherwise stated, the dates of elections on public measures authorized in the city code are limited to those specified for cities in section 39.2.

2008 Acts, ch 1115, §61, 71