CHAPTER 364

POWERS AND DUTIES OF CITIES

Referred to in §28J.9, 192.141, 331.248, 331.261, 354.1, 362.1, 362.9, 373.11, 376.1, 476.23

364.1 Scope.

A city may, except as expressly limited by the Constitution of the State of Iowa, and if not inconsistent with the laws of the general assembly, exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges, and property of the city or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort, and convenience of its residents. This grant of home rule powers does not include the power to enact private or civil law governing civil relationships, except as incident to an exercise of an independent city power.

[C51, §664; R60, §1047, 1056, 1057, 1071 – 1073, 1095; C73, §454 – 456, 482, 524; C97, §680, 695, 947; C13, §695; C24, 27, 31, 35, 39, §**5714, 5738, 6720;** C46, 50, §366.1, 368.2, 420.31; C54, 58, 62, 66, 71, 73, §366.1, 368.2, 420.31; C75, 77, 79, 81, §364.1]

2006 Acts, ch 1010, §95

[P] Municipal home rule, Iowa Constitution, Art. III, §38A

364.2 Vesting of power — franchises.

1. A power of a city is vested in the city council except as otherwise provided by a state law.

2. The enumeration of a specific power of a city does not limit or restrict the general grant of home rule power conferred by the Constitution of the State of Iowa. A city may exercise its general powers subject only to limitations expressly imposed by a state or city law.

3. An exercise of a city power is not inconsistent with a state law unless it is irreconcilable with the state law.

4. *a.* A city may grant to any person a franchise to erect, maintain, and operate plants and systems for electric light and power, heating, telegraph, cable television, district telegraph and alarm, motor bus, trolley bus, street railway or other public transit, waterworks, or gasworks, within the city for a term of not more than twenty-five years. When considering whether to grant, amend, extend, or renew a franchise, a city shall hold a public hearing on the question. Notice of the time and place of the hearing shall be published as provided in section 362.3. The franchise may be granted, amended, extended, or renewed only by an ordinance, but no exclusive franchise shall be granted, amended, extended, or renewed.

b. Such an ordinance shall not become effective unless approved at an election. The proposal may be submitted by the council on its own motion to the voters at any city election. Upon receipt of a valid petition as defined in section 362.4 requesting that a proposal be

submitted to the voters, the council shall submit the proposal at the next regular city election or at a special election called for that purpose before the next regular city election. However, the city council may dispense with such election as to the grant, amendment, extension, or renewal of an electric light and power, heating, or gasworks franchise unless there is a valid petition requesting submission of the proposal to the voters, or the party seeking such franchise, grant, amendment, extension, or renewal requests an election. If a majority of those voting approves the proposal, the city may proceed as proposed. The complete text of the ordinance shall be included on the ballot if conventional paper ballots are used. If an optical scan voting system is used, the proposal shall be stated on the optical scan ballot, and the full text of the ordinance posted for the voters pursuant to section 52.25. All absentee voters shall receive the full text of the ordinance.

c. Notice of the election shall be given by publication as prescribed in section 49.53 in a newspaper of general circulation in the city.

d. The person asking for the granting, amending, extension, or renewal of a franchise shall pay the costs incurred in holding the election, including the costs of the notice. A franchise shall not be finally effective until an acceptance in writing has been filed with the council and payment of the costs has been made.

e. The franchise ordinance may regulate the conditions required and the manner of use of the streets and public grounds of the city, and it may, for the purpose of providing electrical, gas, heating, or water service, confer the power to appropriate and condemn private property upon the person franchised.

f. (1) (a) A franchise fee assessed by a city may be based upon a percentage of gross revenues generated from sales of the franchisee within the city not to exceed five percent except as provided in subparagraph division (b), without regard to the city's cost of inspecting, supervising, and otherwise regulating the franchise.

(b) For franchise fees assessed and collected during fiscal years beginning on or after July 1, 2013, but before July 1, 2030, by a city that is the subject of a judgment, court-approved settlement, or court-approved compromise providing for payment of restitution, a refund, or a return described in section 384.3A, subsection 3, paragraph *"j"*, the rate of the franchise fee shall not exceed seven and one-half percent of gross revenues generated from sales of the franchisee in the city, and franchise fee amounts assessed and collected during such fiscal years in excess of five percent of gross revenues generated from sales shall be used solely for the purpose specified in section 384.3A, subsection 3, paragraph *"j"*. A city may assess and collect a franchise fee in excess of five percent of gross revenues generated from the sales of the franchisee pursuant to this subparagraph division (b) for a period not to exceed seven consecutive fiscal years once the franchise fee is first imposed at a rate in excess of five percent. An ordinance increasing the franchise fee rate to greater than five percent pursuant to this subparagraph division (b) shall not become effective unless approved at an election. After passage of the ordinance, the council shall submit the proposal at a special election held on a date specified in section 39.2, subsection 4, paragraph *"b"*. If a majority of those voting on the proposal approves the proposal, the city may proceed as proposed. The complete text of the ordinance shall be included on the ballot and the full text of the ordinance posted for the voters pursuant to section 52.25. All absentee voters shall receive the full text of the ordinance along with the absentee ballot. This subparagraph division (b) is repealed July 1, 2030.

(2) Franchise fees collected pursuant to an ordinance in effect on May 26, 2009, shall be deposited in the city's general fund and such fees collected in excess of the amounts necessary to inspect, supervise, and otherwise regulate the franchise may be used by the city for any other purpose authorized by law. Franchise fees collected pursuant to an ordinance that is adopted or amended on or after May 26, 2009, to increase the percentage rate at which franchise fees are assessed shall be credited to the franchise fee account within the city's general fund and used pursuant to section 384.3A. If a city franchise fee is assessed to customers of a franchise, the fee shall not be assessed to the city as a customer. Before a city adopts or amends a franchise fee rate ordinance or franchise ordinance to increase the percentage rate at which franchise fees are assessed, a revenue purpose statement shall be prepared specifying the purpose or purposes for which the revenue collected from the

increased rate will be expended. If property tax relief is listed as a purpose, the revenue purpose statement shall also include information regarding the amount of the property tax relief to be provided with revenue collected from the increased rate. The revenue purpose statement shall be published as provided in section 362.3.

(3) If a city adopts, amends, or repeals an ordinance imposing a franchise fee, the city shall promptly notify the director of revenue of such action.

g. If a city grants more than one cable television franchise, the material terms and conditions of any additional franchise shall not give undue preference or advantage to the new franchisee. A city shall not grant a new franchise that does not include the same territory as that of the existing franchise. A new franchisee shall be given a reasonable period of time to build the new system throughout the territory.

5. If provided by ordinance, a city may enter into a chapter 28E agreement for the collection of delinquent parking fines by a county treasurer pursuant to section 321.40 at the time a person applies for renewal of a motor vehicle registration, for violations that have not been appealed or for which appeal has been denied. The city may pay the treasurer a reasonable fee for the collection of such fines, or may allow the county treasurer to retain a portion of the fines collected, as provided in the agreement.

[C51, §664; R60, §1047, 1056, 1057, 1090, 1094, 1095; C73, §454 – 456, 471, 473, 474, 517, 523, 524; C97, §695, 720 – 722, 775, 776; S13, §695, 720 – 722, 776; C24, 27, 31, 35, §5738, 5904, 5904-c1, 5905 – 5909, 6128, 6131 – 6134; C39, §**5738, 5904, 5904.1, 5905 – 5909, 6128, 6131 – 6134;** C46, 50, §368.1, 386.1 – 386.7, 397.2, 397.5 – 397.8; C54, 58, 62, 66, §368.2, 386.1 – 386.7, 388.5 – 388.9, 397.2, 397.5 – 397.8; C71, 73, §368.2, 386.1 – 386.7, 397.2, 397.5 – 397.8; C75, 77, 79, 81, §364.2]

83 Acts, ch 127, §5; 93 Acts, ch 143, §49; 98 Acts, ch 1123, §15; 98 Acts, ch 1148, §1, 9; 2001 Acts, ch 82, §1; 2001 Acts, ch 98, §1; 2005 Acts, ch 54, §11, 12; 2006 Acts, ch 1010, §96; 2007 Acts, ch 190, §42; 2009 Acts, ch 57, §89; 2009 Acts, ch 179, §228, 231; 2012 Acts, ch 1110, §24; 2013 Acts, ch 140, §148, 150

Referred to in §306.46, 357A.23, 358C.13, 364.4, 384.3A, 403.7, 477A.2, 477A.5, 480A.6, 714H.4

[T] Subsection 4, paragraph f amended

364.3 Limitation of powers.

The following are limitations upon the powers of a city:

1. A city council shall exercise a power only by the passage of a motion, a resolution, an amendment, or an ordinance.

2. For a violation of an ordinance a city shall not provide a penalty in excess of the maximum fine and term of imprisonment for a simple misdemeanor under section 903.1, subsection 1, paragraph "*a*". An amount equal to ten percent of all fines collected by cities shall be deposited in the account established in section 602.8108. However, one hundred percent of all fines collected by a city pursuant to section 321.236, subsection 1, shall be retained by the city. The criminal penalty surcharge required by section 911.1 shall be added to a city fine and is not a part of the city's penalty.

3. *a.* A city may not set standards and requirements which are lower or less stringent than those imposed by state law, but may set standards and requirements which are higher or more stringent than those imposed by state law, unless a state law provides otherwise.

b. A city shall not impose any fee or charge on any individual or business licensed by the board for the right to perform plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic systems work within the scope of the license. This paragraph does not prohibit a city from charging fees for the issuance of permits for, and inspections of, work performed in its jurisdiction.

4. A city may not levy a tax unless specifically authorized by a state law.

5. A city shall not adopt or enforce any ordinance imposing any registration or licensing system or registration or license fees for or relating to owner-occupied manufactured or mobile homes including the lots, lands, or manufactured home community or mobile home park upon or in which they are located. A city shall not adopt or enforce any ordinance imposing any registration or licensing system, or registration or license fees, or safety or sanitary standards for rental manufactured or mobile homes unless a similar registration or

licensing system, or registration or license fees, or safety or sanitary standards are required for other rental properties intended for human habitation. This subsection does not preclude the investigation and abatement of a nuisance or the enforcement of a tiedown system, or the enforcement of any regulations of the state or local board of health if those regulations apply to other rental properties or to owner-occupied housing intended for human habitation.

6. A city shall not provide a civil penalty in excess of seven hundred fifty dollars for the violation of an ordinance which is classified as a municipal infraction or if the infraction is a repeat offense, a civil penalty not to exceed one thousand dollars for each repeat offense. A municipal infraction is not punishable by imprisonment.

7. A city which operates a cable communications system shall manage the right-of-way on a competitively neutral and nondiscriminatory basis. Additionally, a city-operated cable communications system shall be required to pay the same fees and charges and comply with other requirements as may be imposed by the city by ordinance or by the terms of a franchise granted by the city, or as may otherwise be imposed by the city, upon any other cable provider. This subsection does not prohibit a city from making an equitable apportionment of franchise requirements between or among cable television providers, in order to eliminate duplication. This subsection shall not be construed to prohibit a city-operated cable communications system from making transfers of surplus as otherwise allowed or from making in-kind contributions as otherwise allowed.

8. *a.* A city may adopt and enforce an ordinance requiring the construction of a storm shelter at a manufactured home community or mobile home park which is constructed after July 1, 1999. In lieu of requiring construction of a storm shelter, a city may require a community or park owner to provide a plan for the evacuation of community or park residents to a safe place of shelter in times of severe weather including tornadoes and high winds if the city determines that a safe place of shelter is available within a reasonable distance of the manufactured home community or mobile home park for use by community or park residents. Each evacuation plan prepared pursuant to this subsection shall be filed with, and approved by, the local emergency management agency. If construction of a storm shelter is required, an ordinance adopted or enforced pursuant to this subsection shall not include any of the following requirements:

(1) That the size of the storm shelter be larger than the equivalent of seven square feet for each manufactured or mobile home space in the manufactured home community or mobile home park.

(2) That the storm shelter include a restroom if the shelter is used exclusively as a storm shelter.

(3) That the storm shelter exceed the construction specifications approved by a licensed professional engineer and presented by the owner of the manufactured home community or mobile home park.

(4) That the shelter be located any closer than one thousand three hundred twenty feet from any manufactured or mobile home in the community. However, this restriction shall not prohibit the adoption or enforcement of an ordinance that requires a minimum of one shelter to be located in a manufactured home community or mobile home park.

b. For the purposes of this subsection:

(1) "*Manufactured home community*" means the same as land-leased community defined in sections 335.30A and 414.28A.

(2) "*Mobile home park*" means a mobile home park as defined in section 562B.7.

(3) "*Storm shelter*" means a single structure or multiple structures designed to provide persons with temporary protection from a storm.

9. A city shall not adopt or enforce any ordinance imposing any limitation on the amount of rent that can be charged for leasing private residential or commercial property. This subsection does not prevent the right of a city to manage and control residential property in which the city has a property interest.

10. A city which operates a utility that furnishes gas or electricity shall manage the right-of-way on a competitively neutral and nondiscriminatory basis. Such city utility shall be required to pay the fees and charges computed in the same manner as those fees and charges which are imposed by the city upon any other provider of a similar service within

the corporate boundaries of the city. Such city utility shall also comply with the terms of the franchise granted by the city to the provider of a similar service. This subsection shall not be construed to prohibit the city utility from making transfers of surplus as otherwise allowed or from making in-kind contributions as otherwise allowed. However, a city shall not require that transfers from the city utility be in excess of the franchise fee amount imposed upon the provider of a similar service unless otherwise agreed.

[R60, §1071 – 1073, 1095; C73, §482, 524; C97, §668, 680, 947; S13, §668; C24, 27, 31, 35, 39, §**5663, 5714, 6720;** C46, 50, §363.36, 366.1, 420.31; C54, 58, 62, §366.1, 368A.1(10), 420.31; C66, 71, 73, §366.1, 368.2, 368A.1(10), 420.31; C75, 77, 79, 81, §364.3]

83 Acts, ch 123, §171, 209; 84 Acts, ch 1219, §31; 85 Acts, ch 195, §44; 86 Acts, ch 1202, §1; 86 Acts, ch 1245, §1118; 94 Acts, ch 1074, §4; 98 Acts, ch 1144, §3; 99 Acts, ch 33, §1; 99 Acts, ch 153, §9; 99 Acts, ch 186, §2; 2000 Acts, ch 1083, §2; 2000 Acts, ch 1203, §20; 2001 Acts, ch 153, §10; 2003 Acts, ch 178, §23; 2004 Acts, ch 1111, §2; 2008 Acts, ch 1191, §61; 2009 Acts, ch 21, §5; 2009 Acts, ch 179, §229, 231; 2011 Acts, ch 100, §14, 15; 2013 Acts, ch 77, §34, 36

Referred to in §331.427, 364.22, 388.10, 455B.192

[T] Subsection 3, paragraph b amended

364.4 Property and services outside of city — lease-purchase — insurance.

A city may:

1. *a.* Acquire, hold, and dispose of property outside the city in the same manner as within. However, the power of a city to acquire property outside the city does not include the power to acquire property outside the city by eminent domain, except for the following, subject to the provisions of chapters 6A and 6B:

(1) The operation of a city utility as defined in section 362.2.

(2) The operation of a city franchise conferred the authority to condemn private property under section 364.2.

(3) The operation of a combined utility system as defined in section 384.80.

(4) The operation of a municipal airport.

(5) The operation of a landfill or other solid waste disposal or processing site.

(6) The use of property for public streets and highways.

(7) The operation of a multistate entity, of which the city is a participating member, created to provide drinking water that has received or is receiving federal funds, but only if such property is to be acquired for water transmission and service lines, pump stations, water storage tanks, meter houses and vaults, related appurtenances, or supporting utilities.

b. The exceptions provided in paragraph *"a"*, subparagraphs (1) through (3), apply only to the extent the city had this power prior to July 1, 2006.

2. By contract, extend services to persons outside the city.

3. Enact and enforce ordinances relating to city property and city-extended services outside the city.

4. Enter into leases or lease-purchase contracts for real or personal property in accordance with the following terms and procedures:

a. A city shall lease or lease-purchase property only for a term which does not exceed the economic life of the property, as determined by the governing body.

b. A lease or lease-purchase contract entered into by a city may contain provisions similar to those sometimes found in leases between private parties, including, but not limited to, the obligation of the lessee to pay any of the costs of operation or ownership of the leased property and the right to purchase the leased property.

c. A provision of a lease or lease-purchase contract which stipulates that a portion of the rent 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 subsection whether it is governed by the governing body of the city or another governing body.

d. The governing body must follow substantially the same authorization procedure required for the issuance of general obligation bonds issued for the same purpose to authorize a lease or a lease-purchase contract made payable from the debt service fund.

e. The governing body may authorize a lease or lease-purchase contract which is

payable from the general fund if the contract would not cause the total of annual lease or lease-purchase payments due from the general fund of the city in any single future fiscal year for all lease or lease-purchase contracts in force on the date of the authorization, excluding payments to exercise purchase options or to pay the expenses of operation or ownership of the property, to exceed ten percent of the last certified general fund budget amount in accordance with the following procedures:

(1) The governing body must follow substantially the authorization procedures of section 384.25 to authorize a lease or lease-purchase contract 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 the lease or lease-purchase contract for real property which is payable from the general fund if the principal amount of the lease-purchase contract does not exceed the following limits:

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

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

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

(2) The governing body must follow the following procedures to authorize a lease or lease-purchase contract for real property which is payable from the general fund if the principal amount of the lease or lease-purchase contract exceeds the limits set forth in subparagraph (1):

(a) The governing body must institute proceedings to enter into a lease or lease-purchase contract payable from the general fund by causing a notice of the meeting to discuss entering into the lease or lease-purchase contract, including a statement of the principal amount and purpose of the lease or lease-purchase contract 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 lease or lease-purchase contract.

(b) (i) 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 lease or lease-purchase contract, 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 lease or lease-purchase contract be submitted to the registered voters of the city, the governing body shall either by resolution declare the proposal to enter into the lease or lease-purchase contract to have been abandoned or shall direct the county commissioner of elections to call a special election upon the question of entering into the lease or lease-purchase contract. However, for purposes of this subparagraph, the petition shall not require signatures in excess of one thousand persons.

(ii) The question to be placed on the ballot shall be stated affirmatively in substantially the following manner:

Shall the city of ..... enter into a lease or lease-purchase contract in amount of $..... for the purpose of .....?

(iii) Notice of the election and its conduct shall be in the manner provided in section 384.26, subsections 2 through 4.

(c) If a petition is not filed or if a petition is filed and the proposition of entering into the lease or lease-purchase contract is approved at an election, the governing body may proceed and enter into the lease or lease-purchase contract.

f. The governing body may authorize a lease or lease-purchase contract 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.

g. A lease or lease-purchase contract to which a city is a party or in which a 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,

savings associations, investment companies, insurance companies, insurance associations, executors, guardians, trustees, and any other fiduciaries responsible for the investment of funds.

h. Property that is lease-purchased by a city is exempt under section 427.1, subsection 2.

i. A contract for construction by a private party of property to be leased or lease-purchased by a city is not a contract for a public improvement under section 26.2, subsection 3, except for purposes of section 26.12. However, if a lease-purchase contract is funded in advance by means of the lessor depositing moneys to be administered by a city, with the city's obligations to make rent payments commencing with its receipt of moneys, a contract for construction of the property in question awarded by the city is subject to chapter 26.

5. Enter into insurance agreements obligating the city to make payments beyond its current budget year to procure or provide for a policy of insurance, a self-insurance program, or a local government risk pool to protect the city against tort liability, loss of property, or any other risk associated with the operation of the city. Such a self-insurance program or local government risk pool is not insurance and is not subject to regulation under chapters 505 through 523C. However, those self-insurance plans regulated pursuant to section 509A.14 shall remain subject to the requirements of section 509A.14 and rules adopted pursuant to that section.

[SS15, §741-d, 741-g; C24, 27, 31, 35, 39, §**5773;** C46, §368.41, 368.42; C50, §368.42, 368.56; C54, 58, 62, 66, 71, 73, §368.18; C75, 77, 79, 81, §364.4]

85 Acts, ch 156, §3; 86 Acts, ch 1211, §22; 92 Acts, ch 1138, §4; 95 Acts, ch 67, §53; 2006 Acts, ch 1017, §35, 42, 43; 2006 Acts, 1st Ex, ch 1001, §32, 49; 2009 Acts, ch 100, §12, 21; 2011 Acts, ch 25, §35; 2012 Acts, ch 1017, §75

Referred to in §346.27, 384.110

364.5 Joint action — Iowa league of cities — penalty.

A city or a board established to administer a city utility, in the exercise of any of its powers, may act jointly with any public or private agency as provided in chapter 28E.

The financial condition and the transactions of the Iowa league of cities shall be audited as provided in section 11.6.

It is unlawful for the Iowa league of cities to provide any form of aid to a political party or to the campaign of a candidate for political or public office. Any person violating or being an accessory to a violation of this section is guilty of a simple misdemeanor.

A city may enter into an agreement with the federal government acting through any of its authorized agencies, and may carry out provisions of the agreement as necessary to meet federal requirements to obtain the funds or cooperation of the federal government or its agencies for the planning, construction, rehabilitation, or extension of a public improvement.

[S13, §694-c; C24, 27, 31, 35, 39, §**5684;** C46, 50, §363.62; C54, 58, 62, 66, 71, 73, §363.43; C75, 77, 79, 81, §364.5]

89 Acts, ch 264, §8; 95 Acts, ch 3, §4; 2011 Acts, ch 75, §40

364.6 Procedure.

A city shall substantially comply with a procedure established by a state law for exercising a city power. If a procedure is not established by state law, a city may determine its own procedure for exercising the power.

[C66, 71, 73, §368.2; C75, 77, 79, 81, §364.6]

364.7 Disposal of property.

A city may not dispose of an interest in real property by sale, lease for a term of more than three years, or gift, except in accordance with the following procedure:

1. The council shall set forth its proposal in a resolution and shall publish notice as provided in section 362.3, of the resolution and of a date, time and place of a public hearing on the proposal.

2. After the public hearing, the council may make a final determination on the proposal by resolution.

3. A city may not dispose of real property by gift except to a governmental body for a public purpose.

[C73, §470; C97, §883, 1001; S13, §1056-a47; C24, 27, §6205, 6206, 6580, 6602, 6738, 6739; C31, 35, §6205, 6206, 6580, 6602, 6679-c1, 6738, 6739; C39, §**6205, 6206, 6580, 6602, 6679.1, 6738, 6739;** C46, 50, §390.6, 403.11, 403.12, 416.108, 416.131, 419.66, 420.49, 420.50; C54, 58, 62, 66, 71, 73, §368.35, 368.39, 390.6; C75, 77, 79, 81, §364.7]

2007 Acts, ch 54, §33

Referred to in §174.15, 306.42, 364.12A, 446.19A

364.8 Overpasses or underpasses.

A city may by ordinance require a railway company operating railway tracks on or across a city street to construct or reconstruct, and maintain, an overpass or underpass to permit the street to pass over or under the tracks, and may establish specifications for the construction or reconstruction of such an overpass or underpass, subject to the following:

1. The requirement may not be enforced until the Iowa state department of transportation approves the specifications for a construction or reconstruction, after examination and a determination that the overpass or underpass is necessary for public safety and convenience.

2. The council shall hold a hearing on the matter and shall give not less than twenty days' notice of the hearing to the railway companies involved, served in the same manner as an original notice.

3. A city may not require overpasses or underpasses of the same railway company to be constructed closer than on every fourth parallel street, nor require a company to construct or contribute to the construction of more than one overpass or underpass each year, nor require the construction of approaches longer than a total of eight hundred feet for a single overpass or underpass.

4. A city which requires construction or reconstruction of an overpass or underpass shall provide for appraisal and assessment of resulting damage to private property, and shall pay the damages assessed, all as provided in chapter 6B.

5. A city shall pay one half of all required maintenance costs, and may allocate costs between railway companies whose tracks are to be crossed by an overpass or underpass.

6. A city may enforce a requirement made as provided in this section by an action in mandamus, to be conducted and enforced as provided in section 327C.16 for actions brought by the state department of transportation. If the city prevails in the mandamus action, in addition to other remedies it may cause the required construction, reconstruction, or maintenance work to be done, and have judgment for the cost of the work against the companies.

[C97, §770 – 774; S13, §771, 773, 774; C24, 27, 31, 35, 39, §**5910 – 5913, 5916 – 5920, 5923 – 5925;** C46, 50, 54, 58, 62, 66, 71, 73, §387.1 – 387.4, 387.7 – 387.11, 387.14 – 387.16; C75, 77, 79, 81, §364.8]

364.9 Flood control — railway tracks.

A city may require a railway company to provide necessary structures, temporary and permanent, to carry its tracks during and after construction of a diverted channel for flood control purposes, subject to the following:

1. The city shall give notice to the railway company, served in the same manner as an original notice, stating:

a. The nature of the flood control project.

b. The place where the diverted channel will cross the company's right-of-way.

c. The specifications for construction of the diverted channel across the company's right-of-way.

d. Details of the city's requirement for the company to provide the necessary structures where the diverted channel crosses the right-of-way, including a designated period of time for construction, and a requirement that the construction be in a manner which does not interfere with the construction of the diverted channel or the free flow of water.

2. If the company does not comply with the requirement, the city may provide the necessary structures, and the railway is liable for the cost of the construction, in addition to

its liability for assessment for special benefits as other property is assessed. The cost of the construction may be collected by the city from the company by court action.

[C24, 27, 31, 35, 39, §**6093 – 6095;** C46, 50, 54, 58, 62, 66, 71, 73, §395.15 – 395.17; C75, 77, 79, 81, §364.9]

364.10 Repealed by 76 Acts, ch 1164, § 98.

364.11 Street construction by railways.

All railway companies shall construct and repair all street improvements between the rails of their tracks, and one foot outside, at their own expense, unless by ordinance the railway is required to improve other portions of the street, and in that case the railway shall construct and repair the improvement of that part of the street specified by the ordinance, and the improvement or repair must be of the material and character ordered by the city, and must be done at the time the remainder of the improvement is constructed or repaired.

When an improvement is made, the company shall lay rail as required by the council, and shall then keep up to grade that part of the improvement they are required to construct or maintain.

If a railway fails or refuses to comply with the order of the council to construct or repair an improvement, the work may be done by the city and the expense shall then be assessed upon the property of the railway company, for collection in the same manner as a property tax. A tax assessed under this section shall also be a debt due from the railway, and may be collected in an action at law in the same manner as other debts.

[R60, §1068; C73, §478; C97, §834, 840; C13, §791-i; SS15, §840-r; C24, 27, 31, 35, 39, §**6052 – 6055;** C46, 50, 54, 58, 62, 66, 71, 73, §391.79 – 391.82; C75, 77, 79, 81, §364.11]

Referred to in §364.13A, 445.1

364.12 Responsibility for public places.

1. As used in this section, *"property owner"* means the contract purchaser if there is one of record, otherwise the record holder of legal title.

2. A city shall keep all public grounds, streets, sidewalks, alleys, bridges, culverts, overpasses, underpasses, grade crossing separations and approaches, public ways, squares, and commons open, in repair, and free from nuisance, with the following exceptions:

a. Public ways and grounds may be temporarily closed by resolution. Following notice as provided in section 362.3, public ways and grounds may be vacated by ordinance.

b. The abutting property owner is responsible for the removal of the natural accumulations of snow and ice from the sidewalks within a reasonable amount of time and may be liable for damages caused by the failure of the abutting property owner to use reasonable care in the removal of the snow or ice. If damages are to be awarded under this section against the abutting property owner, the claimant has the burden of proving the amount of the damages. To authorize recovery of more than a nominal amount, facts must exist and be shown by the evidence which afford a reasonable basis for measuring the amount of the claimant's actual damages, and the amount of actual damages shall not be determined by speculation, conjecture, or surmise. All legal or equitable defenses are available to the abutting property owner in an action brought pursuant to this paragraph. The city's general duty under this subsection does not include a duty to remove natural accumulations of snow or ice from the sidewalks. However, when the city is the abutting property owner it has the specific duty of the abutting property owner set forth in this paragraph.

c. The abutting property owner may be required by ordinance to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that the property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way.

d. A city may serve notice on the abutting property owner, by certified mail to the property owner as shown by the records of the county auditor, requiring the abutting property owner to repair, replace, or reconstruct sidewalks.

e. If the abutting property owner does not perform an action required under this

subsection within a reasonable time, a city may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax. This power does not relieve the abutting property owner of liability imposed under paragraph *"b"*.

f. A city has no duty under this subsection with respect to property that is required by law to be maintained by a railway company.

3. A city may:

a. Require the abatement of a nuisance, public or private, in any reasonable manner.

b. Require the removal of diseased trees or dead wood, except as stated in subsection 2, paragraph *"c"* of this section.

c. Require the removal, repair, or dismantling of a dangerous building or structure.

d. Require the numbering of buildings.

e. Require connection to public drainage systems from abutting property when necessary for public health or safety.

f. Require connection to public sewer systems from abutting property, and require installation of sanitary toilet facilities and removal of other toilet facilities on such property.

g. Require the cutting or destruction of weeds or other growth which constitutes a health, safety, or fire hazard.

h. If the property owner does not perform an action required under this subsection within a reasonable time after notice, a city may perform the required action and assess the costs against the property for collection in the same manner as a property tax. Notice may be in the form of an ordinance or by certified mail to the property owner as shown by the records of the county auditor, and shall state the time within which action is required. However, in an emergency a city may perform any action which may be required under this section without prior notice, and assess the costs as provided in this subsection, after notice to the property owner and hearing.

4. In addition to any other remedy provided by law, a city may also seek reimbursement for costs incurred in performing any act authorized by this section by a civil action for damages against a property owner. However, a city shall not seek reimbursement for costs incurred in performing an act if the same act has not been performed by the city on adjoining city-owned property. For the purposes of this subsection, a county acquiring property for delinquent taxes shall not be considered a property owner.

5. A city may cause, without prior determination and notice, the repair or replacement of public improvements including, but not limited to, sidewalks, water stop boxes, and driveway approaches if the property owner does all of the following:

a. Requests the repair and replacement of the public improvements specified in this subsection abutting the property owner's property located outside the lot and property lines and inside the curb lines.

b. Waives the requirement of a prior finding by the city council that the condition of the public improvements constitutes a nuisance and the requirement of prior notice.

c. Consents to the repair of the public improvements and the assessment of the cost of the repair to the abutting property.

6. If, in repairing and replacing improvements in the area between the lot or property lines and the curb lines pursuant to subsection 5, it becomes necessary for the city to repair or replace adjacent improvements in the area, the cost of repairing or replacing the adjacent public improvements may be assessed, with consent of the property owner, against the property which the public improvements abut.

7. A city may accumulate individual assessments for the repair and replacement of sidewalks, driveway approaches, water stop boxes, or similar improvements or for the abatement of nuisances, and may periodically certify the assessments to the county treasurer under one or more assessment schedules.

1. [C75, 77, 79, 81, §364.12(1)]

2. [R60, §1097; C73, §467, 527; C97, §753, 757, 780, 781; C24, 27, 31, 35, 39, §**5874, 5945, 5950, 5969;** C46, 50, §381.1, 389.12, 389.19, 389.38; C54, 58, 62, 66, §368.33, 381.1, 389.12, 389.38; C71, 73, §368.33, 381.1, 381.2, 389.12, 389.38; C75, 77, 79, 81, §364.12(2)]

3. [R60, §1057, 1058, 1070, 1096; C73, §456, 457, 480, 526; C97, §696, 698, 699, 709 – 712; S13, §696, 711, 713-b, 737; C24, 27, 31, 35, 39, §**5739, 5751, 5752, 5755, 5759, 5784 – 5786;**

C46, §368.2, 368.14, 368.15, 368.18, 368.22 – 368.24, 368.44, 368.53 – 368.55; C50, §368.2, 368.14, 368.15, 368.18, 368.22 – 368.24, 368.44, 368.53 – 368.55, 368.62; C54, 58, 62, 66, 71, 73, §368.3, 368.4, 368.9, 368.26, 368.31; C75, 77, 79, 81, §364.12(3)]

84 Acts, ch 1002, §1; 89 Acts, ch 261, §1; 95 Acts, ch 58, §1

Referred to in §364.13, 364.13A, 384.11, 445.1

[P] Nuisances in general, chapter 657

364.12A Condemnation of residential buildings — public purpose.

For the purposes of section 6A.4, subsection 6, a city may condemn a residential building found to be a public nuisance and take title to the property for the public purpose of disposing of the property under section 364.7 by conveying the property to a private individual for rehabilitation or for demolition and construction of housing.

96 Acts, ch 1204, §26

364.13 Installments.

If any amount assessed against property under section 364.12 will exceed five hundred dollars, a city may permit the assessment to be paid in up to ten annual installments, in the same manner and with the same interest rates provided for assessments against benefited property under chapter 384, division IV.

[C24, 27, 31, 35, 39, §**5784 – 5786;** C46, 50, §368.53 – 368.55; C54, 58, §368.26; C62, 66, §368.26, 389.38; C71, 73, §368.3, 368.26, 389.38; C75, 77, 79, 81, §364.13]

2012 Acts, ch 1138, §100

364.13A Special assessments — lien and precedence.

A special assessment levied pursuant to section 364.11 or 364.12, including all interest, is a lien against the benefited property from the date of filing the schedule of assessments until the assessment is paid. Special assessments have equal precedence with ordinary taxes and are not divested by judicial sale.

83 Acts, ch 90, §20; 92 Acts, ch 1016, §6

364.13B Special assessments — procedures for levy.

The procedures for making and levying a special assessment pursuant to this chapter and for an appeal of the assessment are the same procedures as provided in sections 384.59 through 384.67 and sections 384.72 through 384.75.

83 Acts, ch 90, §20

364.14 Personal injuries.

When action is brought against a city for personal injuries alleged to have been caused by its negligence, the city may notify in writing any person by whose negligence it claims the injury was caused. The notice shall state the pendency of the action, the name of the plaintiff, the name and location of the court where the action is pending, a brief statement of the alleged facts from which the cause arose, that the city believes that the person notified is liable to it for any judgment rendered against the city, and asking the person to appear and defend. A judgment obtained in the suit is conclusive in any action by the city against any person so notified, as to the existence of the defect or other cause of the injury or damage, as to the liability of the city to the plaintiff in the first named action, and as to the amount of the damage or injury. A city may maintain an action against the person notified to recover the amount of the judgment together with all the expenses incurred by the city in the suit.

[C97, §1053; C24, 27, 31, 35, 39, §**6735;** C46, 50, §420.46; C54, 58, 62, 66, 71, 73, §368.34, 420.46; C75, 77, 79, 81, §364.14]

364.15 Changing grade of streets.

If a city has established the grade of a street or alley, and any person has made improvements on lots abutting the street or alley according to the established grade, and afterward the grade is altered in a manner to damage, injure, or diminish the value of the improved property, the city shall pay to the owner of the property the amount of such damage or injury.

If a city has opened a street or alley, and any person has made improvements on lots abutting the street or alley or uses such street or alley for ingress or egress, and afterward the street or alley is vacated causing damage or injury or loss of access, or diminishing the value of the improved property, the city shall pay to the owner of the property the amount of such damage or injury.

[C73, §469; C97, §785, 786; C24, 27, 31, 35, 39, §**5953, 5954;** C46, 50, 54, 58, 62, 66, 71, 73, §389.22, 389.23; C75, 77, 79, 81, §364.15]

364.16 Municipal fire protection.

Each city shall provide for the protection of life and property against fire and may establish, house, equip, staff, uniform, and maintain a fire department. A city may establish fire limits and may, consistent with code standards promulgated by nationally recognized fire prevention agencies, regulate the storage, handling, use, and transportation of all flammables, combustibles, and explosives within the corporate limits and inspect for and abate fire hazards. A city may provide conditions upon which the fire department will answer calls outside the corporate limits or the territorial jurisdiction and boundary limits of this state. A city has the same governmental immunity outside its corporate limits when providing fire protection as when operating within the corporate limits. Fire fighters operating equipment on calls outside the corporate limits are entitled to the benefits of chapter 410 or 411 when otherwise qualified.

[R60, §1058, 1096; C73, §457, 525; C97, §711, 716; S13, §711; C24, 27, §5760, 5766; C31, 35, §5760, 5766; C39, §**5760, 5766, 5766.1;** C46, 50, §368.23, 368.29, 368.30; C54, 58, 62, 66, 71, 73, §368.11; C77, 79, 81, §364.16]

92 Acts, ch 1163, §84

Referred to in §357B.8, 357J.15

364.17 City housing codes.

1. A city with a population of fifteen thousand or more may adopt by ordinance the latest version of one of the following housing codes before January 1, 1981:

a. The uniform housing code promulgated by the international conference of building officials.

b. The housing code promulgated by the American public health association.

c. The basic housing code promulgated by the building officials conference of America.

d. The standard housing code promulgated by the southern building code congress international.

e. Housing quality standards promulgated by the United States department of housing and urban development for use in assisted housing programs.

2. Every city with a population of fifteen thousand or more which has not adopted another housing code under this section by January 1, 1981, is subject to and shall be considered to have adopted the uniform housing code promulgated by the international conference of building officials, as amended to January 1, 1980. A city which reaches a population of fifteen thousand, as determined after July 1, 1980, has six months after such determination to comply with this section.

3. *a.* A city which adopts or is subject to a housing code under this section shall adopt enforcement procedures, which shall include a program for regular rental inspections, rental inspections upon receipt of complaints, and certification of inspected rental housing, and may include but are not limited to the following:

(1) A schedule of civil penalties or criminal fines for violations. A city may charge the owner of housing a late payment fee of twenty-five dollars and may add interest of up to one and one-half percent per month if a penalty or fine imposed under this subparagraph is not paid within thirty days of the date that the penalty or fine is due. The city shall send a notice of the late payment fee to such owner by first class mail to the owner's personal or business mailing address. The late payment fee and the interest shall not accrue if such owner files an appeal with either the city, if the city has established an appeals procedure, or the district court. Any unpaid penalty, fine, fee, or interest shall constitute a lien on the real property and may be collected in the same manner as a property tax. However, before a lien is filed, the

city shall send a notice of intent to file a lien to the owner of the housing by first class mail to such owner's personal or business mailing address.

(2) Authority for the issuance of orders requiring violations to be corrected within a reasonable time.

(3) Authority for the issuance of citations pursuant to sections 805.1 to 805.5 upon a failure to satisfactorily remedy a violation.

(4) Authority, if other methods have failed, for an officer to contract to have work done as necessary to remedy a violation, the cost of which shall be assessed to the violator and constitute a lien on the property until paid.

(5) An escrow system for the deposit of rent which will be applied to the costs of correcting violations.

(6) Mediation of disputes based upon alleged violations.

(7) Injunctive procedures.

(8) Authority by ordinance to provide that no rent shall be recoverable by the owner or lessee of any dwelling which does not comply with the housing code adopted by the city until such time as the dwelling does comply with the housing code adopted by the city.

b. The enforcement procedures shall be designed to improve housing conditions rather than to displace persons from their homes.

4. A city which is subject to the uniform housing code or which adopts another housing code under this section may provide reasonable variances for existing structures which cannot practicably meet the standards in the code but are not unsafe for habitation.

5. Cities may establish reasonable fees for inspection and enforcement procedures. A city may charge the owner of housing a late payment penalty of twenty-five dollars and may add interest of up to one and one-half percent per month if a fee imposed under this subsection is not paid within thirty days of the date that the fee is due. The city shall send a notice of the late payment penalty to such owner by first class mail to the owner's personal or business mailing address. The late payment penalty and the interest shall not accrue if such owner files an appeal with either the city, if the city has established an appeals procedure, or the district court. Any unpaid fee, penalty, or interest shall constitute a lien on the real property and may be collected in the same manner as a property tax. However, before a lien is filed, the city shall send a notice of intent to file a lien to the owner of the housing by first class mail to such owner's personal or business mailing address.

6. Cities with populations of less than fifteen thousand may comply with this section.

7. A city may adopt housing code provisions which are more stringent than those in the model housing code it adopts or to which it is subject under this section.

[C24, 27, 31, 35, 39, §**6327 – 6451;** C46, 50, 54, 58, 62, 66, §413.1 – 413.125; C71, 73, 75, 77, 79, §413.1 – 413.11, 413.13 – 413.125; C81, §364.17]

83 Acts, ch 101, §81; 2005 Acts, ch 179, §60, 61; 2009 Acts, ch 133, §130

364.18 Federal aid.

Subject to applicable state or federal regulations in effect at the time of the city action, a city may accept contributions, grants, or other financial assistance from the state or federal government. Upon a finding of public purpose, the city may disburse the assistance to any person to be used for economic development projects, including but not limited to the purchase or improvement of land and buildings for residential, commercial, or industrial use.

83 Acts, ch 48, §1, 3

364.19 Contracts to provide services to tax-exempt property.

A city council or county board of supervisors may enter into a contract with a person whose property is totally or partially exempt from taxation under chapter 404, chapter 404B, section 427.1, or section 427B.1, for the city or county to provide specified services to that person including but not limited to police protection, fire protection, street maintenance, and waste collection. The contract shall terminate as of the date previously exempt property becomes subject to taxation.

84 Acts, ch 1232, §1; 2009 Acts, ch 100, §22, 30

364.20 Motor vehicles required to operate on ethanol blended gasoline.

A motor vehicle purchased or used by a city to provide city services shall not operate on gasoline other than ethanol blended gasoline as defined in section 214A.1. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on ethanol blended gasoline. However, the sticker is not required to be affixed to an unmarked vehicle used for purposes of providing law enforcement or security.

91 Acts, ch 254, §22; 93 Acts, ch 26, §8; 2006 Acts, ch 1142, §69

364.21 Use of vacant school property.

A city shall not lease, purchase, or construct a building before considering the leasing of a vacant facility or building owned by a local public school corporation. The city may lease a facility or building owned by a local public school corporation with an option to purchase the facility or building in compliance with section 297.22. The lease shall provide that the public school corporation may terminate the lease if the corporation needs to use the facility or building for school purposes. The public school corporation shall notify the city at least thirty days before the termination of the lease.

[82 Acts, ch 1148, §4]

97 Acts, ch 184, §6

364.22 Municipal infractions.

1. *a.* A municipal infraction is a civil offense punishable by a civil penalty of not more than seven hundred fifty dollars for each violation or if the infraction is a repeat offense, a civil penalty not to exceed one thousand dollars for each repeat offense. However, notwithstanding section 364.3, a municipal infraction arising from noncompliance with a pretreatment standard or requirement, referred to in 40 C.F.R. § 403.8, by an industrial user may be punishable by a civil penalty of not more than one thousand dollars for each day a violation exists or continues.

b. (1) A city may classify a municipal infraction, other than a violation arising from noncompliance with a pretreatment standard or requirement, as an environmental violation if the infraction is a violation of chapter 455B or 459, subchapters II and III, or a violation of a standard established by the city in consultation with the department of natural resources, or both. The discharge of airborne residue from grain, created by the handling, drying, or storing of grain by a person, shall not be subject to an ordinance, the violation of which is classified as an environmental violation, unless the person is engaged in industrial production or manufacturing of grain products. The discharge of airborne residue from grain, created by the handling, drying, or storing of grain by a person engaged in industrial production or manufacturing of grain products, shall not be subject to an ordinance, the violation of which is classified as an environmental violation, if the discharge occurs from September 15 to January 15. A municipal infraction which is classified an environmental violation is punishable by a civil penalty of not more than one thousand dollars for each occurrence. A person committing an environmental violation is not subject to a civil penalty, if all of the following conditions are satisfied:

(a) The violation results solely from the person conducting an initial start-up, cleaning, repairing, performing scheduled maintenance, testing, or conducting a shutdown, of either equipment causing the violation or the equipment designed to reduce or eliminate the violation.

(b) The person notifies the city of the violation within twenty-four hours from the time that the violation begins.

(c) The violation does not continue in existence for more than eight hours.

(2) A city shall not enforce this section against a person committing an environmental violation, until the city offers to participate in informal negotiations with the person. If the person accepts the offer, the city and the person shall participate in good faith negotiations to resolve issues alleged to be the basis for the violation.

2. A city by ordinance may provide that a violation of an ordinance is a municipal infraction.

3. A city shall not provide that a violation of an ordinance is a municipal infraction if the violation is a felony, an aggravated misdemeanor, or a serious misdemeanor under state law or if the violation is a simple misdemeanor under chapters 687 through 747.

4. An officer authorized by a city to enforce a city code or regulation may issue a civil citation to a person who commits a municipal infraction. A copy of the citation may be served by personal service as provided in rule of civil procedure 1.305, by certified mail addressed to the defendant at the defendant's last known mailing address, return receipt requested, or by publication in the manner as provided in rule of civil procedure 1.310 and subject to the conditions of rule of civil procedure 1.311. A copy of the citation shall be retained by the issuing officer, and the original citation shall be sent to the clerk of the district court. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:

a. The name and address of the defendant.

b. The name or description of the infraction attested to by the officer issuing the citation.

c. The location and time of the infraction.

d. The amount of civil penalty to be assessed or the alternate relief sought, or both.

e. The manner, location, and time in which the penalty may be paid.

f. The time and place of court appearance.

g. The penalty for failure to appear in court.

h. The legal description of the affected real property, if applicable.

5. *a.* Upon receiving a citation under subsection 4 that affects real property and that charges a violation relating to the condition of the property, including a building code violation, a local housing regulation violation, a housing code violation, or a public health or safety violation, the clerk of the district court shall index the citation pursuant to section 617.10, if the legal description of the affected property is included in or attached to the citation.

b. After filing the citation with the clerk of the district court, the city shall also file the citation in the office of the county treasurer. The county treasurer shall include a notation of the pendency of the action in the county system, as defined in section 445.1, until the judgment of the court is satisfied or until the action is dismissed. Pursuant to section 446.7, an affected property that is subject to a pending action shall not be offered for sale by the county treasurer at tax sale.

6. In municipal infraction proceedings:

a. The matter shall be tried before a magistrate, a district associate judge, or a district judge in the same manner as a small claim. The matter shall only be tried before a judge in district court if the total amount of civil penalties assessed exceeds the jurisdictional amount for small claims set forth in section 631.1.

b. The city has the burden of proof that the municipal infraction occurred and that the defendant committed the infraction. The proof shall be by clear, satisfactory, and convincing evidence.

c. The court shall ensure that the defendant has received a copy of the charges and that the defendant understands the charges. The defendant may question all witnesses who appear for the city and produce evidence or witnesses on the defendant's behalf.

d. The defendant may be represented by counsel of the defendant's own selection and at the defendant's own expense.

e. The defendant may answer by admitting or denying the infraction.

f. If a municipal infraction is proven the court shall enter a judgment against the defendant. If the infraction is not proven, the court shall dismiss it.

7. All penalties or forfeitures collected by the court for municipal infractions shall be remitted to the city in the same manner as fines and forfeitures are remitted for criminal violations under section 602.8106. If the person named in the citation is served as provided in this section and fails without good cause to appear in response to the civil citation, judgment shall be entered against the person cited.

8. A person against whom judgment is entered, shall pay court costs and fees as in small claims under chapter 631. If the action is dismissed, the city is liable for the court costs and

court fees. Where the action is disposed of without payment, or provision for assessment, of court costs, the clerk shall at once enter judgment for costs against the city.

9. Seeking a civil penalty as authorized in this section does not preclude a city from seeking alternative relief from the court in the same action.

10. *a.* When judgment has been entered against a defendant, the court may do any of the following:

(1) Impose a civil penalty by entry of a personal judgment against the defendant.

(2) Direct that payment of the civil penalty be suspended or deferred under conditions imposed by the court.

(3) Grant appropriate alternative relief ordering the defendant to abate or cease the violation.

(4) Authorize the city to abate or correct the violation.

(5) Order that the city's costs for abatement or correction of the violation be entered as a personal judgment against the defendant or assessed against the property where the violation occurred, or both.

b. If a defendant willfully violates the terms of an order imposed by the court, the failure is contempt.

c. A magistrate or district associate judge shall have jurisdiction to assess or enter judgment for costs of abatement or correction in an amount not to exceed the jurisdictional amount for a money judgment in a civil action pursuant to section 631.1, subsection 1, for magistrates and section 602.6306, subsection 2, for district associate judges. If the city seeks abatement or correction costs in excess of those amounts, and the matter is not before a judge in district court, the case shall be referred to the district court for hearing and entry of an appropriate order. The procedure for hearing in the district court shall be the same procedure as that for a small claims appeal pursuant to section 631.13.

11. The defendant or the city may file a motion for a new trial or may appeal the decision of a magistrate, district associate judge, or a district judge to the district court. The procedure on appeal shall be the same as for a small claim pursuant to section 631.13. A factual determination made by the trial court, supported by substantial evidence as shown in the record, is binding for purposes of appeal relating to the violation at issue, but shall not be admissible or binding as to any future violation for the same or similar ordinance provision by the same defendant.

12. This section does not preclude a peace officer of a city from issuing a criminal citation for a violation of a city code or regulation if criminal penalties are also provided for the violation. Each day that a violation occurs or is permitted to exist by the defendant, constitutes a separate offense.

13. The issuance of a civil citation for a municipal infraction or the ensuing court proceedings do not provide an action for false arrest, false imprisonment, or malicious prosecution.

14. An action brought pursuant to this section for a municipal infraction which is an environmental violation does not preclude, and is in addition to, any other enforcement action which may be brought pursuant to chapter 455B, 455D, 455E, or 459, subchapters II, III, and VI.

15. A police department may dispose of personal property under section 80.39.

86 Acts, ch 1202, §2; 87 Acts, ch 99, §4 – 6; 89 Acts, ch 150, §5 – 8; 90 Acts, ch 1210, §1 – 5; 96 Acts, ch 1067, §1; 98 Acts, ch 1144, §4; 2000 Acts, ch 1203, §21; 2003 Acts, ch 178, §24; 2009 Acts, ch 21, §6; 2010 Acts, ch 1050, §1, 2

Referred to in §364.22B, 380.10, 446.7, 455B.192

364.22A Neglected animals.

A city may rescue, provide maintenance, or dispose of neglected livestock or another animal, as provided in chapters 717 and 717B.

94 Acts, ch 1103, §4

364.22B Collection of judgment debt.

1. As used in this section, *"judgment debt"* means any criminal penalty, any personal

judgment for a civil penalty, or any personal or in rem judgment for the costs of abating a nuisance or other violation, owing to a city in any proceeding brought as a municipal infraction under section 364.22, or in a civil nuisance proceeding under chapter 657, or in a criminal proceeding for a misdemeanor violation under a city ordinance.

2. Judgment debt owing to a city is deemed delinquent if it is not paid within thirty days after the date it is assessed. An amount which was ordered by the court to be paid on a date fixed in the future is deemed delinquent if it is not received by the clerk of court within thirty days after the fixed date set out in the court order. If an amount was ordered to be paid in installments and an installment is not received within thirty days after the date it is due, the entire amount of the judgment debt is deemed delinquent.

3. *a.* A city may contract with a private collection designee for the collection of a judgment debt sixty days after the judgment debt in a case is deemed delinquent pursuant to subsection 2.

b. The contract shall provide for a collection fee of up to twenty-five percent of the amount of the balance of the judgment debt in a case deemed delinquent. The collection fee shall be added to the amount of the judgment debt deemed delinquent. The amount of the judgment debt deemed delinquent and the collection fee shall be owed by and collected from the defendant. The collection fee shall be used to compensate the private collection designee.

2010 Acts, ch 1146, §6

364.23 Energy-efficient lighting required.

All city-owned exterior flood lighting, including but not limited to street and security lighting but not including era or period lighting which has a minimum efficiency rating of fifty-eight lumens per watt and not including stadium or ball park lighting, shall be replaced, when worn-out, exclusively with high pressure sodium lighting or lighting with equivalent or better energy efficiency as approved in rules adopted by the utilities board within the utilities division of the department of commerce. In lieu of the requirements established for replacement lighting under this section, stadium or ball park lighting shall be replaced, when worn-out, with the most energy-efficient lighting available at the time of replacement which may include metal halide, high-pressure sodium, or other light sources which may be developed.

89 Acts, ch 297, §6; 91 Acts, ch 253, §16; 92 Acts, ch 1233, §3

Referred to in §474.5

364.24 Traffic light synchronization.

After July 1, 1992, all cities with more than three traffic lights within the corporate limits shall establish a traffic light synchronization program for energy efficiency in accordance with rules adopted by the state department of transportation. The state department of transportation shall adopt rules required by this section by July 1, 1990. This section does not require that a city replace lighting, which has not completed its useful life, in order to comply with the requirements of this section. However, all lighting shall be replaced, whether or not it has completed its useful life, by July 1, 2001.

89 Acts, ch 297, §7; 91 Acts, ch 253, §15

364.25 Retiree health care.

A city may provide health or medical insurance coverage or supplemental health or medical insurance coverage to retired employees of the city. A city providing health or medical insurance coverage pursuant to this section may establish such requirements or restrictions concerning the coverage provided as the city may adopt. If coverage is provided, the cost of the health or medical insurance coverage may be paid from moneys held in a trust and agency fund established pursuant to section 384.6, or out of an appropriation from the city general fund for this purpose.

2000 Acts, ch 1089, §1