

## CHAPTER 392

### CITY ADMINISTRATIVE AGENCIES

Referred to in [§21.5](#), [27.1](#), [97B.52A](#), [330.23](#), [362.1](#), [362.2](#), [362.9](#), [376.1](#), [476B.1](#)

392.1	Establishment by ordinance.	392.5	Library board.
392.2	Pledging credit or taxing power prohibited.	392.6	Hospital or health care facility trustees.
392.3	Contracts reviewable by council.	392.7	Prior agencies.
392.4	Joint action.		

#### 392.1 Establishment by ordinance.

If the council wishes to establish an administrative agency, it shall do so by an ordinance which indicates the title, powers, and duties of the agency, the method of appointment or election, qualifications, compensation, and term of members, and other appropriate matters relating to the agency. The title of an administrative agency must be appropriate to its function. The council may not delegate to an administrative agency any of the powers, authorities, and duties prescribed in [subchapter V of chapter 384](#) or in [chapter 388](#), except that the council may delegate to an administrative agency established for the purpose of operating an airport any of its powers and duties prescribed in [subchapter V of chapter 384](#), and the council may delegate to an administrative agency power to establish and collect charges, and disburse the moneys received for the use of a city facility, including a city enterprise, as defined in [section 384.24](#), if the delegation to an administrative agency is strictly subject to the limitations imposed by the revenue bonds or pledge orders outstanding which are payable from the revenues of the city enterprise. Except as otherwise provided in [this chapter](#), the council may delegate rulemaking authority to the agency for matters within the scope of the agency's powers and duties, and may prescribe penalties for violation of agency rules which have been adopted by ordinance. Rules governing the use by the public of any city facility must be made readily available to the public.

[C75, 77, 79, 81, §392.1]

[95 Acts, ch 21, §1](#); [2018 Acts, ch 1041, §127](#)

#### 392.2 Pledging credit or taxing power prohibited.

An administrative agency may not pledge the credit or taxing power of the city.

[C75, 77, 79, 81, §392.2]

#### 392.3 Contracts reviewable by council.

Unless otherwise stated in the ordinance establishing the agency, contracts and agreements entered into by administrative agencies are subject to review and approval by the council, but when so approved and to the extent such contracts and agreements are otherwise valid by law, are valid and not voidable by subsequent actions of the city even if the administrative agency is dissolved, but no such contract or agreement may conflict with the provisions of [subchapter V of chapter 384](#) or [chapter 388](#), or any action taken pursuant to the provisions of the same.

[C75, 77, 79, 81, §392.3]

[2018 Acts, ch 1041, §127](#)

#### 392.4 Joint action.

Subject to approval by the council, an administrative agency may take action jointly with other public or private agencies as provided in [chapter 28E](#).

[C75, 77, 79, 81, §392.4]

#### 392.5 Library board.

1. *a.* A city library board of trustees functioning on the effective date of the city code shall continue to function in the same manner until altered or discontinued as provided in [this section](#).

*b.* In order for the board to function in the same manner, the council shall retain all

applicable ordinances, and shall adopt as ordinances all applicable state statutes repealed by 1972 Iowa Acts, ch. 1088.

2. A library board may accept and control the expenditure of all gifts, devises, and bequests to the library.

3. *a.* A proposal to alter the composition, manner of selection, or charge of a library board, or to replace it with an alternate form of administrative agency, is subject to the approval of the voters of the city.

*b.* The proposal may be submitted to the voters at any city election by the council on its own motion. 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. A proposal submitted to the voters must describe with reasonable detail the action proposed.

*c.* If a majority of those voting approves the proposal, the city may proceed as proposed.

*d.* If a majority of those voting does not approve the proposal, the same or a similar proposal may not be submitted to the voters of the city for at least four years from the date of the election at which the proposal was defeated.

[C97, §728, 729; S13, §729; SS15, §728; C24, 27, 31, 35, 39, §5851, 5858; C46, 50, 54, 58, 62, 66, 71, 73, §378.3, 378.10; C75, 77, 79, 81, §392.5]

[2001 Acts, ch 24, §49](#); [2014 Acts, ch 1026, §81](#)

### **392.6 Hospital or health care facility trustees.**

1. If a hospital or health care facility is established by a city, the city shall by ordinance provide for the election, at a special election held pursuant to [section 39.2, subsection 4, paragraph “b”](#), of three trustees, whose terms of office shall be four years. However, at the first election, three shall be elected and hold their office, one for four years and two for two years, and they shall by lot determine their respective terms. A candidate for hospital or health care facility trustee must be a resident of the hospital or health care facility service area within the boundaries of the state at the time of the election at which the person’s name appears on the ballot. A board of trustees elected pursuant to [this section](#) shall serve as the sole and only board of trustees for any and all institutions established by a city as provided for in [this section](#).

2. The administration and management of an institution as provided for in [this section](#) is vested in a board of trustees consisting of three, five, or seven members. A three-member board may be expanded to a five-member board, and a five-member board may be expanded to a seven-member board. Expansion of the membership of the board shall occur only on approval of a majority of the current board of trustees. The additional members shall be appointed by the current board of trustees. One appointee shall serve until the next succeeding general or regular city election, at which time a successor shall be elected, and the other appointee shall serve until the second succeeding general or regular city election, at which time a successor shall be elected. The determination of which election an appointed additional member shall be required to seek election shall be determined by lot. Thereafter, the terms of office of such additional members shall be four years.

3. *a.* Terms of office of trustees elected pursuant to general or regular city elections shall begin at noon on the first day in January which is not a Sunday or legal holiday. Terms of office of trustees appointed to fill a vacancy or elected pursuant to special elections shall begin at noon on the tenth day after appointment or the special election which is not a Sunday or legal holiday. The trustees shall begin their terms of office by taking the oath of office, and organize as a board by the election of one trustee as chairperson, one trustee as treasurer, and one trustee as secretary. Terms of office of trustees shall extend to noon on the first day in January which is not a Sunday or legal holiday or until their successors are elected and qualified.

*b.* Vacancies on the board of trustees may, until the next general or regular city election, be filled in the same manner as provided in [section 347.10](#). An appointment made under this paragraph shall be for the unexpired balance of the term of the preceding trustee. If a board member is absent for four consecutive regular board meetings, without prior excuse, or fails to comply with more stringent attendance requirements for regular board meetings included

in the bylaws governing the board, the member's position shall be declared vacant and filled as set out in this paragraph.

4. A trustee shall not receive any compensation for services performed under [this chapter](#), but a trustee shall be reimbursed for actual and necessary expenses incurred in performance of the trustee's duties.

5. The board of trustees shall be vested with authority to provide for the management, control, and government of the city hospital or health care facility established as permitted by [this section](#), and shall provide all needed rules for the economic conduct thereof and shall annually prepare a condensed statement of the total receipts and expenditures for the hospital or health care facility and cause the same to be published in a newspaper of general circulation in the city in which the hospital or health care facility is located.

6. Boards of trustees of institutions provided for in [this section](#) are granted all of the powers and duties necessary for the management, control, and government of the institutions, specifically including but not limited to any applicable powers and duties granted boards of trustees under other provisions of the Code relating to hospitals, nursing homes, assisted or independent living services, and other ancillary services irrespective of the chapter of the Code under which such institutions are established, organized, operated, or maintained, unless such provisions are in conflict with [this section](#).

[S13, §741-o, -p; C24, §5867 – 5871; C27, 31, 35, §5867, 5867-a1, 5868 – 5871; C39, §5867, 5867.1, 5868 – 5871; C46, 50, 54, 58, 62, 66, §380.1 – 380.6; C71, 73, §380.1 – 380.6, 380.16; C75, 77, 79, 81, §392.6]

[94 Acts, ch 1034, §1](#); [96 Acts, ch 1080, §1, 2](#); [99 Acts, ch 36, §11](#); [2000 Acts, ch 1015, §1](#); [2003 Acts, ch 9, §1, 2](#); [2009 Acts, ch 110, §16](#); [2018 Acts, ch 1033, §7](#)

Referred to in [§12B.10](#)

Removal from office, [§66.1A, 66.31](#)

### **392.7 Prior agencies.**

Except as otherwise provided in [this chapter](#), an administrative agency established by a city shall continue with the same powers and duties until altered or discontinued as provided in [this section](#). The council may by ordinance reduce or increase an administrative agency's power and duties, or may transfer powers and duties from one agency to another. The council may discontinue an administrative agency by adopting a resolution proposing the action, and publishing notice as provided in [section 362.3](#), of the resolution and of a date, time and place of a public hearing on the proposal, and may discontinue the agency by ordinance or amendment not sooner than thirty days following the hearing.

[C97, §850; S13, §679-m, 741-w1, 850-a, 1056-a6d; C24, §5685, 5787, 5832, 5845, 5901, 6827; C27, §5685, 5787, 5829-a1, 5832, 5845, 5866-a2, 5901, 6827; C31, 35, §5685, 5787, 5813-d2, 5829-a1, 5832, 5845, 5866-a2, 5901, 6827; C39, §5685, 5787, 5813.2, 5829.01, 5832, 5845, 5866.02, 5901, 6827; C46, 50, §364.1, 370.1, 371.2, 373.1, 374.3, 377.2, 379.2, 384.2, 420.160; C54, §364.1, 370.1, 371.2, 373.1, 374.3, 374A.1, 377.2, 379.2, 384.2, 420.160; C58, 62, 66, 71, 73, §364.1, 370.1, 371.2, 373.1, 374.3, 374A.1, 377.2, 379.2, 384.2, 386B.6, 420.160; C75, 77, 79, 81, §392.7]