

CHAPTER 197

CITY CODE

H. F. 723

AN ACT correcting, amending and clarifying provisions in the city code of Iowa and increasing the allowable levy for support of a symphony orchestra.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section three hundred sixty-two point one (362.1), Code
2 1975, is amended to read as follows:

3 **362.1 Citation.** This chapter and chapters 364, 368, 372, 376, 380,
4 *three hundred eighty-four (384) of the Code*, 388 and 392 may be cit-
5 ed as the "City Code of Iowa".

1 SEC. 2. Section three hundred sixty-two point two (362.2), Code
2 1975, is amended by striking subsections two (2), fifteen (15), and six-
3 teen (16).

1 SEC. 3. Section three hundred sixty-two point two (362.2), subsec-
2 tion nineteen (19), Code 1975, is amended to read as follows:

3 19. "Amendment" means a revision or repeal of an existing ordi-
4 nance or ~~city~~ code of ordinances.

1 SEC. 4. Section three hundred sixty-two point two (362.2), Code
2 1975, is amended by adding the following new subsections:

3 NEW SUBSECTION. "City code" means the city code of Iowa.

4 NEW SUBSECTION. "Qualified elector" means the same as it is de-
5 fined in section thirty-nine point three (39.3), subsection two (2) of the
6 Code.

1 SEC. 5. Section three hundred sixty-two point nine (362.9), Code
2 1975, is amended to read as follows:

3 **362.9 Application of city code.** The provisions of this chapter
4 and chapters 364, 368, 372, 376, 380, *three hundred eighty-four (384)*
5 *of the Code*, 388 and 392 are applicable to all cities.

1 SEC. 6. Section three hundred sixty-four point two (364.2), subsec-
2 tion four (4), paragraph b, Code 1975, is amended to read as follows:

3 b. No such ordinance shall become effective unless ~~a majority of the~~
4 ~~persons voting thereon vote in favor thereof approved at an election.~~
5 The proposal may be submitted by the council on its own motion to
6 the voters at any city election. Upon receipt of a valid petition as de-
7 fined in section 362.4 requesting that a proposal be submitted to the
8 voters, the council shall submit the proposal at the next regular city
9 election or at a special election called for that purpose prior to the next
10 regular city election. If a majority of those voting approves the propos-
11 al the city may proceed as proposed.

1 SEC. 7. Section three hundred sixty-four point twelve (364.12), sub-
2 section two (2), paragraph c, Code 1975, is amended to read as follows:

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

1 SEC. 8. Section three hundred sixty-eight point eleven (368.11), un-
2 numbered paragraph one (1), Code 1975, is amended to read as fol-
3 lows:

*According to enrolled Act

4 A petition for incorporation, discontinuance, or boundary adjust-
 5 ment may be filed with the board by a city council, a county board of
 6 supervisors, a regional planning authority, or ~~ten~~ five percent of the
 7 ~~voters qualified electors~~ of a city or territory, based upon the number
 8 ~~of persons who voted for governor at the last preceding general election~~
 9 *involved in the proposal*. Notice of the filing, including a copy of the
 10 petition, must be served upon the council of each city for which a dis-
 11 continuance or boundary adjustment is proposed, the board of supervi-
 12 sors for each county which contains a portion of a city to be
 13 discontinued or territory to be incorporated, annexed or severed, and
 14 any regional planning authority for the area involved.

1 SEC. 9. Section three hundred sixty-eight point nineteen (368.19),
 2 Code 1975, is amended to read as follows:

3 **368.19 Time limit—election.** The committee shall approve or
 4 disapprove the petition or plan as amended, within ninety days of the
 5 final hearing, and shall file its decision for record and promptly notify
 6 the parties to the proceeding of its decision. If a petition or plan is ap-
 7 proved, the board shall set a date within ninety days for a special elec-
 8 tion on the proposal and the county commissioner of elections shall
 9 conduct the election. In a case of incorporation or discontinuance,
 10 qualified ~~voters~~ *electors* of the territory or city may vote, and the pro-
 11 posal is authorized if a majority of those voting approves it. In a case
 12 of annexation or severance, qualified ~~voters~~ *electors* of the territory
 13 and of the city may vote, and the proposal is authorized if a majority
 14 of the total number of persons voting approves it. In a case of consoli-
 15 dation, qualified ~~voters~~ *electors* of each city to be consolidated may
 16 vote, and the proposal is authorized only if it receives a favorable ma-
 17 jority vote in each city. The county commissioner of elections shall
 18 publish notice of the election as provided in section 368.15, and shall
 19 conduct the election in the same manner as other special city elections.

1 SEC. 10. Section three hundred sixty-eight point twenty-one
 2 (368.21), Code 1975, is amended to read as follows:

3 **368.21 Supervision of procedures.** When an incorporation, dis-
 4 continuance, or boundary adjustment is complete, the board shall su-
 5 pervise procedures necessary to carry out the proposal. In the case of
 6 an incorporation, the county commissioner of elections shall conduct
 7 an election for mayor and council of the city, who shall serve until
 8 their successors take office following the next regular city election. In
 9 the case of a discontinuance, the board shall publish two notices as pro-
 10 vided in section 368.15 that it will receive and adjudicate claims
 11 against the discontinued city for a period of six months *from the date*
 12 *of last notice*, and shall cause necessary taxes to be levied against the
 13 property within the discontinued city to pay claims allowed. All rec-
 14 ords of a discontinued city shall be deposited with the county auditor
 15 of the county designated by the board, ~~except that court records shall~~
 16 ~~be deposited with the clerk of the district court of the county.~~ *Any re-*
 17 *maining balances shall be deposited in the general fund of the coun-*
 18 *ty where the former city was located.* In the case of boundary
 19 adjustments, the proper city officials shall carry out procedures neces-
 20 sary to implement the proposal.

1 SEC. 11. Section three hundred seventy-two point one (372.1), un-
 2 numbered paragraph three (3), Code 1975, is amended to read as fol-
 3 lows:

4 ~~Upon the effective~~ *Within thirty days of the date of the city code*
5 *that this section becomes effective*, a city shall adopt by ordinance a
6 charter embodying its existing form of government, which must be one
7 of the forms provided in this division, and shall file a copy of its chart-
8 er with the secretary of state, and maintain copies available for public
9 inspection.

1 SEC. 12. Section three hundred seventy-two point two (372.2), sub-
2 section five (5), paragraph a, Code 1975, is amended to read as follows:

3 a. The elective officers provided for in the adopted form are to be
4 elected at the next regular city election held more than sixty days after
5 the special election at which the form was adopted, and the adopted
6 form becomes effective at the beginning of the ~~calendar year which fol-~~
7 ~~lows such new term following the regular city election.~~

1 SEC. 13. Section three hundred seventy-two point four (372.4), un-
2 numbered paragraph two (2), Code 1975, is amended to read as fol-
3 lows:

4 ~~A~~ *However, a city governed, on the effective date of this section,*
5 *by the mayor-council form composed of a mayor and a council consist-*
6 *ing of two councilmen elected at large, and one councilman from each*
7 *of four wards, or a special charter city governed, on the effective*
8 *date of this section, by the mayor-council form composed of a may-*
9 *or and a council consisting of two councilmen elected at large and*
10 *one councilman elected from each of eight wards, may continue until*
11 *the form of government is changed as provided in section 372.2 or sec-*
12 *tion 372.9. While a city is thus operating with an even number of coun-*
13 *cilmen, the mayor may vote to break a tie vote on motions, and in a*
14 *special charter city operating with ten councilmen under this sec-*
15 *tion, the mayor may vote to break a tie vote on all measures.*

1 SEC. 14. Section three hundred seventy-two point five (372.5), un-
2 numbered paragraph three (3), Code 1975, is amended to read as fol-
3 lows:

4 ~~A~~ *However, a city governed, on the effective date of this section,*
5 *by the commission form and having a council composed of a mayor*
6 *and two councilmen elected at large may continue with a council of*
7 *three until the form of government is changed as provided in section*
8 *372.2 or section 372.9.*

1 SEC. 15. Section three hundred seventy-two point six (372.6), un-
2 numbered paragraph one (1), Code 1975, is amended to read as fol-
3 lows:

4 A city governed by the council-manager-at-large form has five coun-
5 cilmen elected at large for staggered four-year terms. At the first meet-
6 ing ~~after~~ *of the new term following* each city election, the council
7 shall elect one of the councilmen to serve as mayor, and one to serve
8 as mayor pro tem. The mayor is a member of the council and may
9 vote on all matters before the council. As soon as possible after *the*
10 *beginning of the new term following* each city election, the council
11 shall appoint a manager.

1 SEC. 16. Section three hundred seventy-two point seven (372.7), un-
2 numbered paragraph two (2), Code 1975, is amended to read as fol-
3 lows:

4 As soon as possible after *the beginning of the new term following*
5 each city election, the council shall appoint a city manager, and a
6 councilman to serve as mayor pro tem.

1 SEC. 17. Section three hundred seventy-two point nine (372.9), sub-
2 section eight (8), paragraph a, Code 1975, is amended to read as fol-
3 lows:

4 a. The elective officers provided for in the charter are to be elected
5 at the next regular city election held more than sixty days after the
6 special election at which the charter was adopted, and the adopted
7 charter becomes effective at the beginning of the ~~fiscal year which fol-~~
8 ~~lows such~~ *new term following the* regular city election.

1 SEC. 18. Section three hundred seventy-six point two (376.2), un-
2 numbered paragraph two (2), Code 1975, is amended to read as fol-
3 lows:

4 Except as otherwise provided by state law or the city charter, terms
5 for elective offices are two years. However, the term of an elective of-
6 fice may be changed to two or four years by petition and election.
7 Upon receipt of a valid petition as defined in section 362.4, requesting
8 that the term of an elective office be changed, the council shall submit
9 the question at a special city election to be held within thirty days. If
10 a majority of the persons voting at the special election approves the
11 changed term, it becomes effective at the beginning of the term follow-
12 ing the next regular city election. If a majority does not approve the
13 changed term, the ~~mayor~~ council shall not submit the same proposal
14 to the voters within the next four years.

1 SEC. 19. Section three hundred seventy-six point three (376.3),
2 Code 1975, is amended to read as follows:

3 **376.3 Nominations.** Candidates for elective city offices must be
4 nominated as provided in sections 376.4 to 376.9 unless by ordinance a
5 city chooses the provisions of chapters 44 or 45. However, a special
6 charter city may continue to hold partisan elections as provided in sec-
7 tions 43.112 to 43.118 and 420.126 to ~~420.138~~ *four hundred twenty*
8 *point one hundred thirty-seven (420.137) of the Code.*

1 SEC. 20. Section three hundred seventy-six point nine (376.9), un-
2 numbered paragraph two (2), Code 1975, is amended to read as fol-
3 lows:

4 Runoff elections must be held two weeks after the date of the regular
5 city election and must be conducted in the same manner as regular city
6 elections except that only ~~voters~~ *persons who were qualified to vote*
7 *electors* in the last preceding regular city election are qualified to vote
8 in the runoff.

1 SEC. 21. Section three hundred eighty point two (380.2), Code 1975,
2 is amended to read as follows:

3 **380.2 Amendment.** An amendment to an ordinance or to a ~~city~~
4 ~~code of ordinances~~ must specifically repeal the ordinance or code, or
5 the section or subsection to be amended, and must set forth in full the
6 ordinance, code, section or subsection as amended.

1 SEC. 22. Section three hundred eighty point four (380.4), Code
2 1975, is amended to read as follows:

3 **380.4 Majority requirement.** Passage of an ordinance, amend-
4 ment, or resolution requires an affirmative vote of not less than a ma-
5 jority of the council members *except when the mayor may vote to*
6 *break a tie vote in a city with an even number of councilmen, as*
7 *provided in section three hundred seventy-two point four (372.4) of*
8 *the Code.* A motion to spend public funds in excess of ten thousand
9 dollars on any one project, or a motion to accept public improvements
10 and facilities upon their completion, also requires an affirmative vote

11 of not less than a majority of the council members. Each councilman's
12 vote on an ordinance, amendment, or resolution must be recorded.

1 SEC. 23. Section three hundred eighty point eight (380.8), Code
2 1975, is amended to read as follows:

3 **380.8 ~~City Code of ordinances published.~~** At least once every
4 five years, a city shall compile a ~~city~~ *code of ordinances* containing all
5 of the city ordinances in effect, except grade ordinances, bond ordi-
6 nances, zoning ordinances, and ordinances vacating streets and alleys.
7 If a proposed ~~city~~ *code of ordinances* contains only existing ordi-
8 nances edited and compiled without change in substance, the council
9 may adopt the code by ordinance.

10 If a proposed ~~city~~ *code of ordinances* contains a proposed new ordi-
11 nance or amendment, the council shall hold a public hearing on the
12 proposed code before adoption. The clerk shall publish notice of the
13 hearing as provided in section 362.3. Copies of the proposed ~~city~~ *code*
14 *of ordinances* must be available at the city clerk's office and the notice
15 must so state. Within thirty days after the hearing, the council may
16 adopt the proposed ~~city~~ *code of ordinances*, which becomes law upon
17 publication of the ordinance adopting it. If the council substantially
18 amends the proposed ~~city~~ *code of ordinances* after a hearing, notice
19 and hearing must be repeated.

20 Ordinances and amendments which become effective after adoption
21 of a ~~city~~ *code of ordinances* may be compiled as supplements to the
22 code, and upon adoption of the supplement by ordinance, become part
23 of the ~~city~~ *code of ordinances*.

24 An adopted ~~city~~ *code of ordinances* is presumptive evidence of the
25 passage, publication, and content of the ordinances therein as of the
26 date of the clerk's certification of the ordinance adopting the code or
27 supplement.

1 SEC. 24. Section three hundred eighty-four point seven (384.7), un-
2 numbered paragraph two (2), Code 1975, is amended to read as fol-
3 lows:

4 The question of the establishment of a capital improvements reserve
5 fund, the time period during which a levy will be made for the fund,
6 and the ~~millage~~ *amount* to be levied therefor is subject to approval by
7 the voters, and may be submitted at any city election upon the coun-
8 cil's motion, or shall be submitted at the next regular city election
9 upon receipt of a valid petition as provided in section 362.4.

1 SEC. 25. Section three hundred eighty-four point twelve (384.12),
2 subsections two (2) and three (3), Code 1975, are amended to read as
3 follows:

4 2. A tax not to exceed ~~one dollar and thirty-five~~ *eighty-one* cents
5 per thousand dollars of assessed value for development, operation, and
6 maintenance of a memorial building or monument, subject to the ~~pro-~~
7 ~~cedure provided in provisions of~~ subsection 1.

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

1 SEC. 26. Section three hundred eighty-four point fifteen (384.15),
2 subsection three (3), Code 1975, is amended to read as follows:

3 3. Establish guidelines for program-performance budgeting and ac-
4 counting and the preparation of capital improvement plans by cities.
5 The guidelines should provide that budgets, accounts, and financial re-
6 ports of cities account for all city receipts and expenditures in terms of

7 city government programs and anticipated or actual performance levels
 8 within each program wherever practicable. The guidelines and the
 9 deadlines for initiation of program-performance budgeting and ac-
 10 counting and for preparation of capital improvement plans may be
 11 modified for different cities. However, as soon as practicable, the com-
 12 mittee may require all cities of over two thousand population to pre-
 13 pare and adopt a tentative budget for a ~~two-year~~ *one-year* or a ~~three-~~
 14 ~~year~~ *two-year* period *following the budget to be adopted for the next*
 15 *fiscal year* and a capital improvement plan for a five-year period. The
 16 budget for the second and third following years may be less detailed
 17 than that for the next ~~following~~ *fiscal year*. A city shall hold a public
 18 hearing on its capital improvement plan before adoption of the plan.
 19 The committee shall, where practicable, utilize recommendations from
 20 the national committee on governmental accounting.

1 SEC. 27. Section three hundred eighty-four point sixteen (384.16),
 2 subsection five (5), Code 1975, is amended to read as follows:

3 5. After the hearing, the council shall adopt *by resolution* a budget
 4 for at least the ~~following~~ *next* fiscal year, and the clerk shall certify
 5 the necessary tax levy for the ~~following~~ *next* fiscal year to the county
 6 auditor and the county board of supervisors. The tax levy certified
 7 may be less than but not more than the amount estimated in the pro-
 8 posed budget *submitted at the final hearing*, unless an additional tax
 9 levy is approved at a city election. ~~A copy~~ *Two copies each* of the
 10 ~~complete~~ *detailed* budget as adopted *and of the tax certificate* must
 11 be transmitted to the county auditor ~~and, who shall complete the cer-~~
 12 ~~tificates and transmit a copy of each~~ *to the state comptroller*.

1 SEC. 28. Section three hundred eighty-four point nineteen (384.19),
 2 unnumbered paragraph one (1), Code 1975, is amended to read as fol-
 3 lows:

4 Within a period of ten days after the final date that a budget or
 5 amended budget may be certified to the county auditor, persons affect-
 6 ed by the budget may file a written protest with the county auditor,
 7 specifying their objections to the budget or any part of it. A protest
 8 must be signed by qualified ~~voters~~ *electors* equal in number to one-
 9 fourth of one percent of the votes cast for governor in the last preced-
 10 ing general election in the city, but not less than ten persons, and at
 11 least three of the signers must have filed a written objection or ap-
 12 peared and objected to the budget at the budget hearing held by the
 13 council.

1 SEC. 29. Section three hundred eighty-four point thirty-four
 2 (384.34), Code 1975, is amended to read as follows:

3 **384.34 Local budget law.** The provisions of ~~chapter 24~~ *division*
 4 *two (II) of this chapter* do not apply to any bonds issued pursuant to
 5 this division.

1 SEC. 30. Section three hundred eighty-four point forty-two (384.42),
 2 unnumbered paragraph one (1), Code 1975, is amended to read as fol-
 3 lows:

4 To construct or repair a public improvement *to be paid for in whole*
 5 *or in part by special assessments*, the council shall proceed as fol-
 6 lows:

1 SEC. 31. Section three hundred eighty-four point fifty-six (384.56),
 2 subsections one (1) and five (5), Code 1975, are amended to read as fol-
 3 lows:

4 1. Cities may assess the cost of a public improvement which extends
5 through, abuts upon, or is adjacent to lands owned by the state, and
6 the executive council shall pay the assessable portion of the cost of the
7 improvement through or along the lands as provided. The executive
8 council shall pay assessments as provided in section ~~307.10~~ *three*
9 *hundred seven A point five (307A.5) of the Code.*

10 5. Subsections 1 and 3 of this section do not apply to lands under
11 the jurisdiction and control of the ~~state highway commission~~ *depart-*
12 *ment of transportation.*

1 SEC. 32. Section three hundred eighty-four point seventy-one
2 (384.71), Code 1975, is amended to read as follows:

3 **384.71 Costs paid from applicable funds.** The whole or any
4 part of the cost of construction or repair of a public improvement may
5 be paid from the proceeds of the issuance of general obligation bonds
6 under the provisions of section 384.25 or *three hundred eighty-four*
7 *point twenty-six (384.26) of the Code, as applicable,* or from the fund
8 or funds of the city authorized to be used for the particular type of im-
9 provement, and the council shall provide that the tax authorized for
10 purposes of the fund or funds must be annually levied to the full ex-
11 tent necessary to reimburse the fund or funds for the amount paid for
12 the construction or repair of the improvement.

1 SEC. 33. Section three hundred ninety-two point one (392.1), Code
2 1975, is amended to read as follows:

3 **392.1 Establishment by ordinance.** If the council wishes to es-
4 tablish an administrative agency, it shall do so by an ordinance which
5 indicates the title, powers, and duties of the agency, the method of ap-
6 pointment, qualifications, compensation, and term of members, and
7 other appropriate matters relating to the agency. The title of an ad-
8 ministrative agency must be appropriate to its function. The council
9 may not delegate to an administrative agency any of the powers, au-
10 thorities, and duties prescribed in division V of chapter 384 or in chap-
11 ter 388, except that the council may delegate to an administrative
12 agency power to establish and collect charges, and ~~disburse~~ *disburse*
13 the moneys received for the use of a city facility, including a city en-
14 terprise, as defined in section 384.24, so long as there are no revenue
15 bonds or pledge orders outstanding which are payable from the reve-
16 nues of the city enterprise. Except as otherwise provided in this chap-
17 ter, the council may delegate rule-making authority to the agency for
18 matters within the scope of the agency's powers and duties, and may
19 prescribe penalties for violation of agency rules which have been
20 adopted by ordinance. Rules governing the use by the public of any
21 city facility must be made readily available to the public.

1 SEC. 34. Section three hundred sixty-eight point six (368.6), Code
2 1975, is repealed.

1 SEC. 35. This Act, being deemed of immediate importance, shall
2 take effect and be in force from and after its publication in The Mount
3 Vernon Hawkeye and The Lisbon Herald, a newspaper published in
4 Mount Vernon, Iowa, and in The Fairfield Daily Ledger, a newspaper
5 published in Fairfield, Iowa.

Approved June 30, 1975

I hereby certify that the foregoing Act, House File 723, was published in The Mount Vernon
Hawkeye and The Lisbon Herald, Mount Vernon, Iowa, July 10, 1975, and in The Fairfield
Daily Ledger, Fairfield, Iowa, July 5, 1975.

MELVIN D. SYNHORST, *Secretary of State*