

**MANUAL FOR**  
**NEWLY ELECTED OFFICIALS**

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## INTRODUCTION

For over thirty years, the Missouri Municipal League has sponsored an annual conference for newly elected municipal officials. At these conferences, many newly elected officials have expressed frustration with the lack of training programs and publications to orient them in their new offices and to explain the duties and responsibilities of their new positions. Because of this lack of assistance, many new officials require an unnecessary amount of time to adjust to their new positions.

Because municipal government has become more complex in recent years, with involvement in additional new services and with requirements imposed by higher levels of government, the demands on the knowledge and expertise of newly elected officials have increased significantly. City governments have become involved in housing rehabilitation, energy conservation, manpower training, economic development, emergency medical services and many other new service programs. Also, both the state and federal governments have imposed rules, regulations and guidelines in areas such as water and air pollution, drinking water standards, ambulance services, public employee relations, community development grants, public hearings on property tax rates, etc. New officials must become familiar with these requirements, as well as the more traditional municipal activities.

The objective of this publication is to assist newly elected mayors and councilmen in learning their statutory duties and responsibilities, as well as procedures to improve the effectiveness and efficiency of municipal governments. The manual will cover the differences, where they exist, in the functions of the mayor and councilmen under the various classifications of municipalities and under the various forms of government.

Throughout the manual, we use the term “city council” to refer to the city governing body, but the reader should substitute “board of aldermen,” “board of trustees” or “commission” when appropriate for a particular class of city. In the same manner, when “city” is used, “village” may be substituted. Also, the masculine pronoun “he” is intended to refer to both male and female elected officials.

As always, your comments and suggestions on improvements to this publication are welcomed by your League staff.

## THE CITY COUNCIL

Impeccably groomed, with a smile on each face,  
They enter the chamber and rush into place;  
Five Council members seating, with airs most sedate,  
All glancing at watches, afraid to be late.  
With bang of the gavel, they're ready for work  
And answer, with gusto, the call of the Clerk;  
Then vote on the warrants and minutes and dates  
Before all the hearings and lengthy debates.

But soon City Elders, so eager and wise,  
Like flowers, start wilting and rubbing their eyes  
And, little by little, are slouching a bit.  
Their eyelids start drooping and gamely they sit  
To listen and argue and vote to decide  
While hair becomes tousled and ties move and slide.  
They drink all the water their pitchers possess,  
For want – not of drink – but, excuse for recess.

Then, on with the battles and on with the bore;  
Same speakers and viewpoints heard often before  
While elbow on table with fist under chin  
Keeps each human body from caving right in.  
And glances at watches show spouses will think  
They fell off the wagon and stopped for a drink.  
They're too tired to stay and they're too weak to leave.  
There's nothing they'll say that their spouses will believe.

The moral of this story is, if you aspire  
To run for the Council, suppress the desire  
Unless you have nothing but time to devote  
And don't have a friend you might lose by a vote  
And don't have a job that means early arise  
And don't have a partner to count hours you lose  
Or care if you sometimes drown sorrows in "booze."

But – run for the Council if you are sincere  
In seeking improvement to that which is here.

It's more work than glory. Some might call you crooks.  
Just God reads the records in old Minute books.

## LOCAL GOVERNMENT IN MISSOURI

### Municipalities In The Federal System

Most city officials are well aware of the important role municipal governments play in the federal system. Also, most officials are aware of the fact that decisions made at the county, state and national levels often have important repercussions at the municipal level.

Many citizens view American federalism as a layer cake with local governments at the base, state governments in the middle, and the national government at the top. This view implies that governmental activities are parceled out to one of these layers: for example, municipalities provide sewage treatment, states maintain universities and the national government maintains the national defense.

However, in practice, American federalism has been characterized by far more cooperation, coordination and sharing of responsibilities than by separation. The traditional view of American federalism simply does not conform to reality.

A far more accurate image is the rainbow or marble cake, characterized by an inseparable mingling of differently colored ingredients, the colors appearing in vertical and diagonal strands and unexpected whorls. As the colors are mixed in the marble cake, so functions are mixed in the American federal system.<sup>(1)</sup>

Actually, it is very difficult to identify programs of the national government in which states and municipalities do not participate, or state and municipal programs in which the national government does not participate. For example, most municipalities could not construct sewage treatment plants without state and federal funds, and all sewage treatment plants must conform to state and federal pollution standards; the national defense is dependent on state national guard units for reserves and on the state and municipal civil defense systems.

Thus, federalism has come to mean the sharing of powers between the nation, the states and local governments, rather than a sharp separation between their respective responsibilities. This idea of sharing powers and responsibilities of government in a wide variety of program areas has come to be called the "New Federalism" or "Cooperative Federalism."

However, when the federal government contributes financially to municipal programs and services, local officials generally must surrender some of their discretion. Federal funds are invariably accompanied by federal standards and guidelines with which local officials must comply in order to qualify for the funds. These regulations and guidelines are designed to insure compliance with minimum national standards and goals, but they often annoy local officials. However, in some cases, the project or program would not be financially feasible without the federal funds.

## County Government

Missouri's 114 counties are subdivisions of the state with a specified structure and responsibilities. Counties, with the exception of the three home rule counties – St. Louis County, Jackson County and St. Charles County – have no inherent or reserved powers of their own, but only those powers granted to them by the Missouri Constitution or statutes.

Counties with more than 85,000 population are eligible for home rule status by electing a charter commission to draft a home rule charter for submission to the voters. The powers of home rule counties were significantly expanded in 1970 when the voters approved an amendment to the Missouri Constitution to permit home rule counties to extend services and functions to municipalities within the county. At the present time, only St. Louis County, Jackson County and St. Charles County have adopted home rule charters, but efforts have been made in several counties to attain home rule status.

In the other counties, a number of factors hinder effective administration. First, counties basically are agents of the state government, with only those powers specifically granted by the state. State laws mandate numerous services the county must perform, but the state seldom provides the funds for these services. In short, county officials have little control over the county's budget and the allocation of revenue. Secondly, these counties lack the power to reorganize their inefficient governmental structures. The existing structure lacks coordination and centralization, because each separate elective county official performs his respective duties without any accountability to any other county official. This situation leads to inefficiency, waste and duplication.

In theory, the county legislative body, known as the county commission, should coordinate county operations in the non-home rule counties. However, their efforts easily are frustrated by other independently elected office holders, such as the county clerk, assessor, recorder of deeds, prosecuting attorney, sheriff, treasurer and auditor.

The township form of government, which still exists in 22 counties, serves to further fragment county government. Each county with this structure is divided into seven to 24 administrative townships. Each township has the following officials: a three-member policy board, a clerk-assessor and a collector. The township functions are: road construction and maintenance, property assessments, tax collection and township elections. The township structure is extremely inefficient and ineffective, but has proven difficult to abolish because of the many officeholders involved.

Missouri counties are divided into four classifications based on the assessed valuation of property within the county:

- Class I – more than \$450 million for a five-year period,
- Class II – between \$300 million and \$450 million for a five-year period,
- Class III – less than \$300 million for a five-year period, and
- Class IV – those that have attained the second classification prior to August 13, 1988, and which would otherwise return to the third classification after this time because of changes in

assessed valuation, shall remain a county in the second classification and shall operate under the laws of this state applying to the second classification.

In the future, we can expect cities and counties to engage more often in cooperative programs and services, such as landfill or emergency dispatching centers. However, counties will have to overcome several deficiencies, such as inadequate revenues, fragmented internal structures and insufficient powers, before they can develop a real “partnership” with municipalities. Many people feel that lowering the 85,000 population requirement for county home rule would be an important step in improving county government. Over the years, the inadequacies of county government have contributed to the incredibly large number of special districts in Missouri.

### **Special Districts**

Missouri, long known as the “Show-Me State,” well could be referred to as the “Special District State.” We have the dubious distinction of having more than 1,700 special districts (no one knows the exact number) performing some 20 different functions, such as roads, fire protection, street lighting, ambulance service, water supply, water conservation, river levees, maintenance, hospitals, nursing homes, sewers, drainage and libraries, under 28 different statutory authorizations.

The bulk of these special districts are road districts that may be formed in any county, except Jackson County and St. Louis County. We have more than 500 special road districts in Missouri, which ranks Missouri first in the nation. Idaho ranks second in the number of special road districts with 78. Incredibly, 63 percent of the nation’s special road districts are found in Missouri. These districts are formed for the purpose of ensuring that the bulk of road and bridge tax revenue collected in an area is spent within that area. Most road districts were formed because the county did not perform the amount of work on the roads that was desired by the citizens of an area. Many of these special road districts are quite small, some maintaining only a mile of roadway.

State laws have been enacted requiring some of the larger counties to expend road and bridge revenues collected within municipalities on streets within these municipalities. Generally, these laws require the county to spend at least 25 percent of the funds collected within the municipality on streets designated by the city council. The Missouri Municipal League has supported similar legislation on a statewide basis. Such legislation would strike at the basic cause for fragmenting road administration into special road districts.

Special districts cause inefficiency and general lack of economies of scale because of the small size of the individual districts. Service could be rendered more economically by a single district that covered a large area than by many small districts each trying to provide the desired service. Also, the numerous special districts impair planning because of the lack of coordination and communication between the various levels of local government.

Special districts, if properly governed and wisely used, are an important and effective unit of government. However, in Missouri, the proliferation of various types of special districts, particularly special road districts, has created a confusing patchwork of local government.

## **Municipal Government**

In Missouri, a community may incorporate as a municipality upon a petition to the county court signed by 15 percent of those voting in the last gubernatorial election. The county commission then calls for an election in the unincorporated area, and a municipality is incorporated if a majority of the voters support the proposal. Municipalities are permitted to provide certain types of local services, such as police and fire protection, sewage disposal and traffic control, which cannot be provided by unincorporated entities or by the county government.

- **Classification Of Municipalities**

Municipal officials and the citizens of their respective communities do not have complete discretion on the structure of their municipal government. Missouri statutes classify municipalities on the basis of population and limit the form of government options of each classification. Missouri statutes provide that a community may incorporate as a city of the third class, fourth class or village on the basis of the population at the time of incorporation<sup>(2)</sup> (see Table A, page 7). It should be emphasized that once a community is incorporated under a given classification, the municipality does not automatically change classification with a gain or loss of population. A municipality may change classification only when the change is approved by a majority vote of the people.

- **Forms Of Government**

Before analyzing in detail the various forms of government, it is necessary to discuss the forms of government permitted for each classification of municipality. Villages are permitted only one form of government – an elected board of trustees, five in number if the village has less than 2,500 population and the option of nine if more than 2,500 population. Fourth class cities are permitted to have the mayor-board of aldermen form and the mayor-city administrator-aldermen form. The board of aldermen may adopt the city administrator form by ordinance, without a vote of the people. Third class cities are granted greater flexibility with the authority to establish the mayor-council form, the council-manager form, the commission form, and the mayor-city administrator-council form. Finally, constitutional charter cities may adopt any form of government the people approve in the charter.

### **A. Mayor-Council Form**

The mayor-council form (also known as the mayor-board of aldermen form in fourth class cities) is the most common form of municipal government in Missouri, as in other states. There are two types of mayor-council form, the weak mayor-council form and the strong mayor-council form. Under the weak mayor-council form, the mayor does not have a great deal of appointive powers because most of the administrative officials, such as the collector, treasurer, assessor and marshal, are elected by the voters. Thus, under the weak mayor-council

form, the mayor does not have a great deal of administrative authority because many administrative officials are independently elected and are responsible only to the electorate.

On the other hand, under the strong mayor-council form, the mayor appoints the administrative officials, usually subject to approval by the council, and the administrative officials are directly responsible to the mayor and council. In Missouri, the state statutes require the election of numerous administrative officers in both third and fourth class cities. Therefore, because many of these officials must be elected rather than appointed by the mayor, Missouri municipalities with the mayor-council form characteristically have the weak mayor-council variety, with the exception of some constitutional charter cities that provide for a strong mayor-council form.

1) Third Class Cities Mayor-Council Form

In third class cities with the mayor-council form, the voters elect a mayor to a four-year term, councilmen from wards to two-year terms,<sup>(3)</sup> and the following officials to two-year terms: municipal judge (except cities where ordinances have been passed to appoint a municipal judge or to use the circuit court), city attorney, assessor, collector and treasurer. The General Assembly has provided a four-year term for elected marshals (cities with a merit system police department appoint a chief of police). In 1985, the General Assembly enacted legislation to permit third class mayor-council cities, by ordinance, to provide that all officers, except the mayor and councilmen, may be appointed instead of elected.

<u>Class</u>	<u>Population Requirement</u>	<u>Total Number</u>
Class 3	3,000 - 29,999 inhabitants	58
Class 4	500 - 2,999 inhabitants	525 (approx.)
Village	fewer than 500 inhabitants	300 (approx.)
Constitutional Charter	more than 5,000 inhabitants	36
Legislative Charter	no requirement	8

TABLE B	
<u>Class</u>	<u>Forms of Government</u>
Village	Board of Trustees
Fourth	Mayor - Board of Aldermen Mayor - City Administrator - Aldermen
Third	Mayor - Council Mayor - City Administrator - Council Council - Manager Commission
Constitutional Charter	To be decided by the people
Legislative Charter	As set forth in the individual legislative charter

TABLE C	
<u>Forms Of Government In Missouri Municipalities</u>	
Mayor-Council	760* (approx.)
Mayor-Administrator-Council	132
Council-Manager	36
Commission	1
*Includes villages that have a chairman and board of trustees.	

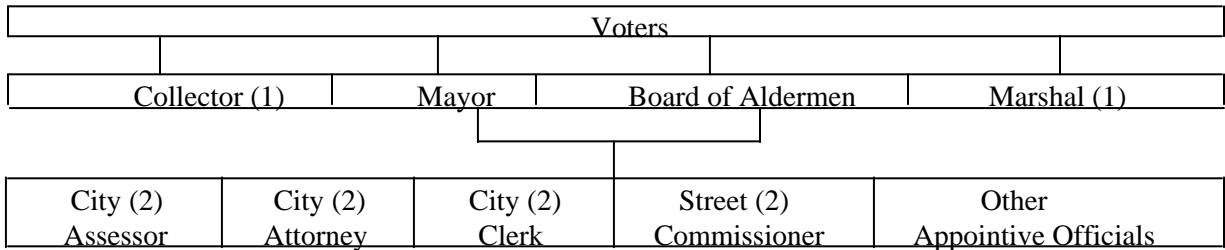
2) Fourth Class City Mayor-Board of Aldermen Form

In fourth class cities with the mayor-board of aldermen form, the voters elect the following officials to two-year terms: a mayor, aldermen from wards,<sup>(4)</sup> collector and marshal.<sup>(5)</sup> In 1989, the General Assembly authorized fourth class cities to provide, by ordinance, that the mayor and collector be elected to four-year terms. In 1998, the General Assembly authorized fourth class cities, by ordinance and with approval of the voters, to provide a four-year term for members of the board of aldermen. The mayor, with the approval of the board of aldermen, has the authority to appoint a treasurer, city attorney, assessor, street commissioner and night watchman, and such other officers as authorized by ordinance. Appointive officers may be removed by the mayor at will with the consent of a majority of all the members of the board of aldermen or without the mayor's approval or recommendation if approved by a two-thirds vote of all the members elected to the board of aldermen. The board of

aldermen may provide for the election of the following city officials: city assessor, city attorney, city clerk and street commissioner. Elective officers may be removed from office, for cause shown, by the mayor with the consent of a majority of all the members elected to the board of aldermen, or without the mayor's approval with a two-thirds vote of all members elected to the board of aldermen, but elective officials first must be given an opportunity, together with witnesses, to be heard before the board of aldermen sitting as a board of impeachment.

**ORGANIZATION CHART**

Fourth Class Cities: Mayor-Council Form

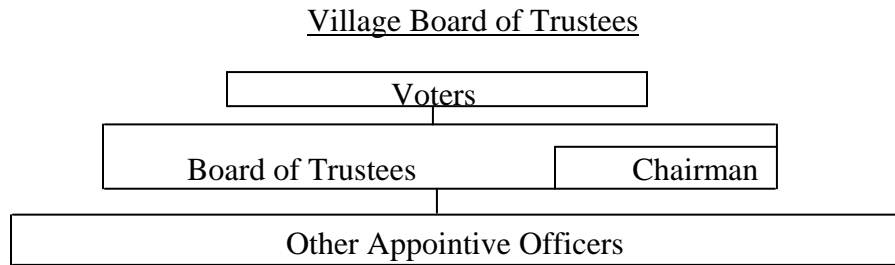


(1) The board of aldermen may provide by ordinance, after approval by the voters, for the appointment of these officials. (2) The board of aldermen may provide for the election of these officials.

3) Villages: Chairman-Trustee Form

Villages are permitted by Missouri statutes to have only one form of government – an elected board of trustees. In villages under 2,500 population, the board of trustees consists of five members, and in villages over 2,500 population, the board may consist of nine members.<sup>(6)</sup> The trustees are elected to two-year terms. The trustees select one of their members to serve as chairman and another person to serve as village clerk. The chairman may vote on any issue before the board except when the office of chairman becomes vacant. When this happens, the remaining members select one of their own as temporary chairman and then proceed to elect someone to fill the vacancy; provided, the chairman or temporary chairman has no vote except in case of a tie. The chairman also is required to publish a semiannual financial statement of all receipts and expenditures. The board of trustees is granted statutory authority to pass ordinances in more than 40 specified areas.<sup>(7)</sup> The board has the power to appoint an assessor, collector, marshal, treasurer and such other officers as may be necessary; to remove them from office; to prescribe their duties; and to fix their compensation. The board may provide by ordinance for either the appointment or election of a municipal judge. The village form of government is relatively easy to chart: the voters elect the board of trustees, which appoints the other municipal officials.

## ORGANIZATION CHART



### B. Commission Form

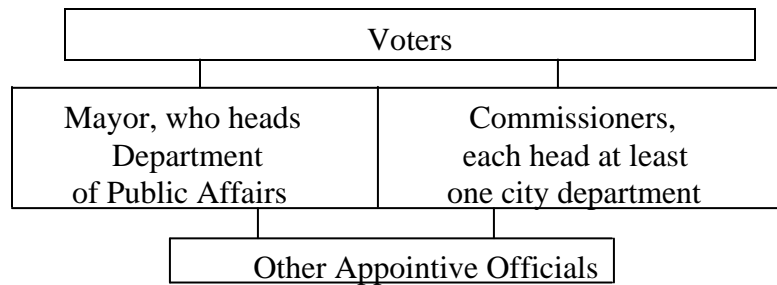
At the present time, only Monett Missouri operates with the commission form. Under the commission form of government, each member of the city council, referred to as the commission, directly heads or supervises an administrative department. Thus, the commissioners serve a dual capacity: as the municipal legislative body, they formulate municipal policy; as individuals, they serve as administrative heads of the various departments. The voters elect a mayor who presides at meetings of the commission, but the mayor typically does not have significant powers over the operations of the other commissioners' departments.

The executive and administrative powers, authority and duties are distributed into the following five departments: public affairs, accounts and finance, public safety, streets and public improvements, and parks and public property. The commission determines the powers and duties of each department. By state law, the mayor must be the superintendent of the department of public affairs, and the commissioners designate one of their members to head the other departments. In cities under 10,000 population, a commissioner may be assigned more than one department.

The commissioners are authorized to appoint, by a majority vote, the following officers: city clerk, attorney, assessor, treasurer, auditor, engineer, marshal, fire chief, police judge and any other officers and assistants deemed necessary for the proper and efficient transaction of city affairs. Any officer or assistant appointed by the commissioners may be removed from office at any time by a majority vote of the members.

## ORGANIZATION CHART

### Commission Form

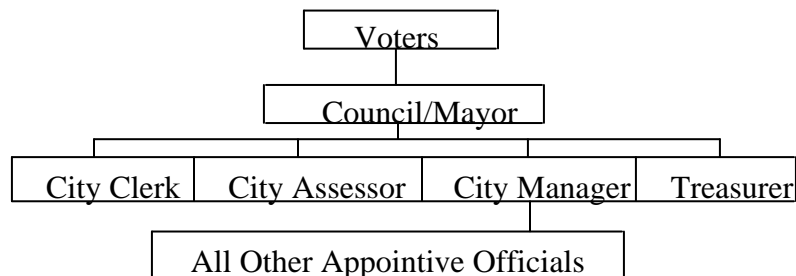


### C. Council-Manager Form

Under the council-manager form there is a differentiation between the policy making function of government and the administrative function. The voters elect the city council that formulates municipal policy. The council appoints the city manager who is responsible to the council for the administration of the city government. Usually, the councilmen deal with the various city departments only through the city manager. The manager has the responsibility to prepare the city budget for council approval and also to execute the budget after adoption. Under the council-manager plan, the mayor presides over council meetings and serves as the city's ceremonial and political leader but has no administrative authority or veto power. The city manager serves at the discretion of the council, which may hire and fire the manager at will, not merely for cause. The council-manager form provides clear lines of authority and responsibility with the city manager as chief executive officer who can be held strictly accountable for municipal operations.

## ORGANIZATION CHART

### Council-Manager Form



Missouri statutes require that third class council-manager cities have a city council consisting of five councilmen who are elected at-large to staggered three-year terms. A 1985 statute provided an optional form in which seven councilmen are elected: five from wards and two at-large. A primary election is necessary when there are more than twice as many candidates for the council as vacancies on the council. The city council must elect one of its members as mayor and another as chairman pro tem for a term of one year. The mayor presides

at all meetings of the council and has a voice and vote in council proceedings, but no veto power. The mayor is recognized as the official head of the city for legal and ceremonial purposes. When the mayor temporarily is absent or disabled, his duties are performed by the chairman pro tem. The city council must appoint a city manager, city clerk, city assessor and city treasurer. All other officers and employees of the city must be appointed and discharged by the city manager, but the council retains power to adopt and modify personnel rules and regulations.

#### **D. City Administrator Form**

The city administrator form permits municipalities to combine the mayor-council form with a trained, full-time city administrator. It enables the mayor and council to delegate specific duties and responsibilities to an appointive city administrator, who is accountable to and serves at the pleasure of the mayor and council.

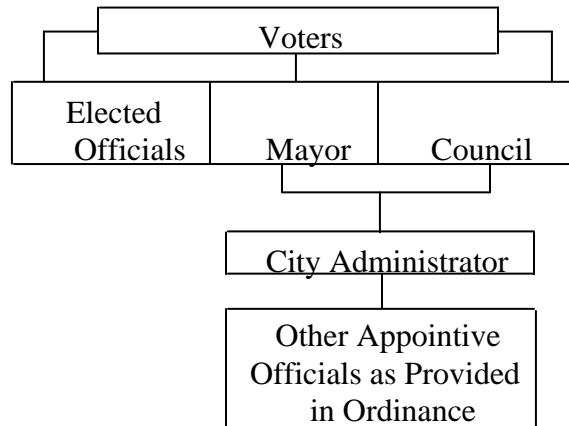
Unlike the city manager form, which requires petitions and an election before adoption, the city administrator form is adopted simply by ordinance of the governing body. The city administrator is employed by the governing body with the approval of the mayor. The administrator serves as the chief administrative assistant to the mayor and has general superintending control of the administration and management of city business and municipal employees, subject to the direction and supervision of the mayor. When the governing body adopts a city administrator ordinance, they may provide that all other officers and employees of the city, except elected officers, may be appointed and discharged by the city administrator, subject to reasonable rules and regulations of the governing body. However, the ordinance may provide that such powers are to be retained by the mayor.

Similar to the city manager, the city administrator serves at the pleasure of the governing body and may be dismissed at any time. The mayor and governing body retain all the powers granted by statute to the city before the adoption of the city administrator form, and all ordinances in effect when the city administrator form is adopted remain in force until repealed or altered by the governing body.

The various city ordinances include a wide variety of powers, duties and qualifications of the city administrator. Some administrators have qualifications and powers of city managers, and others serve as an assistant to the mayor without the power to appoint and dismiss city employees. Because the structure of a city government under the city administrator plan depends on the particular ordinance, it is difficult to present the structure in the form of an organization chart.

## ORGANIZATION CHART

### City Administrator Form



### E. **Constitutional Charter Cities**

In 1875, the Missouri Constitution led the nation in providing that the state's largest municipalities could provide their own structure of government by drafting home rule charters for approval of the voters. For many years, St. Louis and Kansas City were the only constitutional charter cities in the state. In 1946, the voters approved a constitutional amendment to permit home rule status for municipalities over 10,000 population. Since 1946, 32 municipalities have drafted and adopted home rule charters, in addition to the previously adopted charters in St. Louis and Kansas City. In 1971, the voters approved another amendment that broadened home rule powers and lowered the population requirement from 10,000 to 5,000. The amendment provided that:

“Any city which adopts or has adopted a charter for its own government, shall have all powers which the General Assembly of the State of Missouri has authority to confer upon any city, provided such powers are consistent with the Constitution of this State and are not limited or denied either by the Charter so adopted or by statute. Such a city shall, in addition to its home rule powers, have all powers conferred by law.”

The 36 constitutional charter or home rule cities have selected a wide variety of governmental structures. Although many home rule cities have adopted the council-manager form, others provide for the mayor-council form or the mayor-city administrator-council form.

## **THE OFFICE OF MAYOR**

### **Introduction**

To the public at large, the most important official in city government is the mayor. Sometimes, even the mayor and the members of the city council believe this; however, in most Missouri municipalities (and in all statutory cities) the law does not give the mayor very much administrative power.

Because of the feeling among the citizens that the Mayor is in charge, the members of the city council often will abdicate some of their power to the mayor, at least as long as the mayor does not make any controversial decisions. It is hard to overestimate the difference between the powers of the mayor as described in the law books and those he exercises as a matter of custom.

Cities with the mayor-council form of government, which includes villages, fourth class cities and third class mayor-council cities, are alike in the authority given to the mayor – the mayor has very little administrative authority, because most officials, such as the collector, municipal judge, marshal, etc., are elected by the voters and are responsible only to the electorate. In third class council-manager cities, the city manager possesses the administrative powers.

### **Election And Tenure**

#### **A. Villages**

There is no person with the title of “mayor” in a village. The only title that comes close is “chairman of the board of trustees.” Often, the inhabitants of the village and the members of the board of trustees will fall into the habit of calling the chairman of the board the mayor. The chairman of the board is selected by the members of the board from among their number and holds office for one year. At the first meeting of the board after the general election, a board member will nominate a chairman, and he often is selected by acclamation.

#### **B. Fourth Class Cities**

The mayor of a fourth class city is elected by the people at the April municipal election. The term of the mayor may be two, three or four years. Any changes in the term require voter approval. The election may be either partisan or nonpartisan (see below).

#### **C. Third Class Cities**

In third class cities (not having the council-manager form), the mayor is elected by popular vote to a four-year term. The city may have either a partisan or nonpartisan election as it desires. Cities that are dissatisfied with one method of election may change to the other by adopting an ordinance.

The advantage of a partisan election is that both the Democrats and Republicans will try to nominate a candidate for the office, in which case you usually are certain of having two

persons competing for the office. In a city that has a nonpartisan election, there is no formal mechanism for selection of candidates and maybe only one person will file, or perhaps none.

The disadvantage of partisan elections is that they may inject political considerations from the county and state races into the municipal government and may create divisions where otherwise there would be none.

#### **D. Council-Manager**

The mayor of a third class council-manager city is selected from among the members of the city council by the city council. The mayor serves a one-year term.

### **Qualifications**

#### **A. Villages**

The chairman in a village need have only the qualifications necessary to become a trustee. (See page 21)

#### **B. Fourth Class Cities**

The mayor must be at least 25 years of age, a citizen of the United States, and a resident of the city at least one year prior to his election.

#### **C. Third Class Cities**

The mayor in a third class city (not having council-manager form) must be 30 years old, a citizen of the United States, and have been a resident of the city for at least two years immediately preceding his election.

#### **D. Council-Manager Cities**

The qualifications for the mayor of a third class council-manager city is the same as for any other member of the city council. (See page 22)

### **Additional Requirements – payment of taxes and user fees.**

Several state statutes set requirements for candidates for municipal office in regards to the payment of municipal taxes and users fees.

- RSMo 115.346 states “...no person shall be certified as a candidate for a municipal office, nor shall such person's name appear on the ballot as a candidate for such office, who shall be in arrears for any unpaid city taxes or municipal user fees on the last day to file a declaration of candidacy for the office.”

- RSMo 71.005 states “No person shall be a candidate for municipal office unless such person complies with the provisions of section 115.346, RSMo, regarding payment of municipal taxes or user fees.”
- RSMo 79.250 which applies to elected officers in fourth class cities states “No person shall be elected or appointed to any office who shall at the time be in arrears for any unpaid city taxes”
- RSMo 77.380 which applies to elected officers in third class cities states “No person shall be elected or appointed to any office who shall at the time be in arrears for any unpaid city taxes, or forfeiture or defalcation in office.”

## **Removal From Office**

### **A. Villages**

The state statutes provide villages with limited ability to remove officers. § 80.080 RSMo provides that the board of trustees may “punish any member...for disorderly behavior in their presence, and with the concurrence of four of the trustees, expel any member, but not for a second time for the same cause”. A 1995 court case interpreted this to mean that four trustees may expel a member from a meeting, but not for the remainder of the member’s term.

### **B. Fourth Class Cities**

The mayor of a fourth class city may be removed from office “for cause shown” by two-thirds vote of all the members elected to the board of aldermen. The mayor does not vote on this question, and his approval certainly is not required. For the removal of the mayor from office, it appears that the mayor must be “first given opportunity, together with his witnesses, to be heard before the board of aldermen sitting as a board of impeachment.”

### **C. Third Class Cities**

In a third class city not having the council-manager form, the mayor may be removed from office for cause shown upon a two-thirds vote of all the members elected to the city council. The mayor does not vote, and his approval is not necessary. The mayor or any elected city official may be subject to a recall election if petitions are signed by 25 percent of the registered voters.

### **D. Third Class Council-Manager Cities**

There is no provision in the statutes relating to third class cities with a council-manager form of government for the removal of the mayor from his office. As the office of mayor in such a city largely is a ceremonial post, this fact is not surprising.

## **Statutory Duties**

### **A. Villages**

The chairman of the board of trustees of a village has the following duties:

- 1) Presides at the meetings of the board and is permitted to vote on any proposition that comes before the group, with the exception given on page 9.
- 2) Calls special meetings of the board at any time, although the statute does not say if it can be “at any place,” so the safe course would be for a special meeting to be held at the regular meeting place.
- 3) Causes to be printed ordinances passed by the board “for the information of the inhabitants.” The statutes do not say what happens if the chairman fails to publish an ordinance; it is possible the ordinance would be unenforceable without the publication.
- 4) Causes the ordinances of the city “to be carried into effect.” The chairman’s ability to do this depends on the support he receives from the board.

### **B. Fourth Class Cities**

The mayor of a fourth class city has the following duties:

- 1) Vetoes any ordinance passed by the board of aldermen although the veto may be overridden by two-thirds of the members of the board. (RSMo 79.140)
- 2) Has a seat in and presides at all meetings of the board of aldermen, although he shall not have a vote, except in the case of a tie. (RSMo 79.120)
- 3) Signs all “orders, drafts and warrants drawn on the city treasury for money and causes the city clerk to attest the same.” (RSMo 95.365)
- 4) Signs the commissions and appointments of all city officers elected or appointed in the city. (RSMo 79.190)
- 5) Approves all official bonds of officers of the city, unless otherwise prescribed by ordinance. (RSMo 79.190)
- 6) Is authorized to call on every male inhabitant of the city over 18 years of age and under 50 to aid in enforcing the laws. (RSMo 79.200)
- 7) Has the power to “communicate to the board of aldermen” and recommend any measures he thinks will be for the best interests of the city. (RSMo 79.210)
- 8) Appoints all appointive officers of the city, with the exception of the city clerk. If the city clerk is an “appointive” office, then that appointment is made by the board of

aldermen. However, all other appointive officers are appointed by the mayor, subject to the approval of the board of aldermen. (RSMo 79.230)

9) “Exercises a general supervision over all the officers and affairs of the city.” (RSMo 79.120)

10) “Takes care” that the ordinances of the city and the state laws relating to the city are complied with. (RSMo 79.120)

11) Has the power to administer oaths to people who appear as witnesses before the board of aldermen. (RSMo 79.180)

12) May require any officer of the city to exhibit his accounts or other paper or records. (RSMo 79.350)

### **C. Third Class Cities**

The mayor of a third class city (except a council-manager city) generally has the same powers as the mayor of a fourth class city, and, in addition, possesses the following powers:

1) Has a line item veto of any general appropriation bill; that is, he can approve all the payments, except for one or two that he does not like (RSMo 77.270). The mayor in a fourth class city has to take all or nothing.

2) Can veto any resolution or order of the city council that calls for the expenditure of city revenues. To override this veto, it takes a vote of three-fourths of the council, rather than two-thirds. A two-thirds vote will override other vetoes. (RSMo 77.280)

### **D. Third Class Council-Manager Cities**

The mayor of a third class city with a council-manager government serves in more of a ceremonial role. According to state statutes “the power and duties of the mayor shall be such as conferred upon him by Sections 78.630 to 78.640 of the state statutes and no others.” The following powers and duties may be seen in those statutes:

1) Presides at all meetings of the council.

2) May vote on all bills and resolutions.

3) Has no veto power at all.

4) Shall be recognized as the official head of the city by the courts for the purpose of serving civil process, by the governor for the purpose of military law and for all ceremonial purposes.

5) Must sign every resolution or ordinance passed by the council or in his absence by the mayor pro tem, or by two members of the council before the same shall be enforced.

6) Can call special meetings of the city council at his own choice. The other four members of the city council cannot singly call a special meeting of the council, but two of them must get together for that purpose.

### **Customary Duties**

The mayor of a city customarily is thought of by the citizens and by the media as the head of the government. Because of this perception by the public, the mayor can find that he has additional duties not granted him by the statutes and may exercise considerably more influence than would be indicated from a simple reading of the statutes.

In many cities, the mayor is the person who prepares the city budget. In other cities, the budget is prepared by some official under the direction of the mayor. This gives the mayor a considerable amount of control over the operation of the city, since the other members of the city council usually are not intimately familiar with the provisions of the budget and have to rely upon the knowledge of the mayor.

In cities without a professional management staff, it often is the mayor who has the responsibility for the procurement of federal grants and for relationships with other units of government in the state. This may be a considerable amount of work, but the performance of these duties adds greatly to the influence of the mayor. The members of the Council may think they are too busy and may have acquired some of the same perceptions as the public at-large and believe it is the “mayor’s job.” In doing this job, the mayor will pick up some expertise that is relied upon by the council at-large and the public.

Generally, when federal and state officials correspond with the city, they will address their letters or documents directly to the mayor. Obviously, the manner in which that information is shared will affect the political influence of the mayor.

## **THE OFFICE OF COUNCILMAN**

### **Introduction**

The powers and duties of a city council and the members of the council will vary depending upon the form of government used in the city. In addition, subtle factors of politics, tradition and personality may limit or expand the powers of individual councilmen. Regardless of the form of government, however, the council is the basic unit because it levies taxes, appropriates money, makes decisions on policy matters and has at least some sort of supervision over administration. The council is the legislative body of the municipality, which adopts local resolutions and ordinances within the framework of the latitude given it by state law.

It is the council that possesses the authority, not the individual councilmember. They must act as a group for a decision to be legally enforceable.

### **Election**

The people elect their representatives to the city council at the annual municipal elections in April of each year.

#### **A. Villages**

When a new village is incorporated, the first members of the board of trustees are appointed by the county commission at the time the county commission declares the village incorporated. Thereafter, the trustees are elected for two-year terms. The trustees are not elected from special districts or wards, but hold city-wide office. There will be five trustees if the village has 2,500 inhabitants or less; villages with 2,500 inhabitants or more may have a nine member board of trustees if approved by the voters.

#### **B. Fourth Class Cities**

The members of the city council of a fourth class city are called "aldermen," and there can be as few as four aldermen or as many aldermen as the city wishes to have. The city is divided into "wards" at the discretion of the board, and two aldermen are elected from each ward. Aldermen hold office for two years (or four years if approved by a vote of the people), with staggered terms. When the city first becomes a fourth class city, two aldermen are elected from each ward at the first election, and the alderman who receives the highest number of votes holds office for two years, and the one with the second highest number of votes holds office for one year. There is no provision in the law for a primary election, although a fourth class city by ordinance may decide to have one. To be elected to the board of aldermen, one does not have to receive a majority of the votes cast but a mere plurality.

### **C. Third Class Cities**

Third class cities have a legislative body known as the “city council.” The city is divided into wards, and it is required that there be at least four wards. Each councilman holds his office for two years. According to the statutes, whenever a city becomes a third class city, “two councilmen shall be elected from each such ward by the qualified voters thereof at the first election of councilmen.... The one receiving the highest number of votes in each ward shall hold his office for two years, and the one receiving the next highest number of votes in each ward shall hold his office for one year.” Thereafter, each ward annually shall elect one councilman who shall hold his office for two years. A 1985 statute provides an optional form in which the city is divided into not fewer than four wards with one councilman elected from each ward.

### **D. Third Class Council-Manager Cities**

Third class cities with a council-manager form of government will have five members on the city council. The councilmen have terms of three years each, provided that the first council is elected with one member serving for one year, two for two years, and two for three years. Each councilman in the third class council-manager form of government is elected at-large. For voting purposes, the council divides the city into voting precincts, but there is no requirement that there be the same number of precincts as there are councilmen or that a councilman live in a particular precinct. It is required that a primary election be held when the number of candidates exceeds twice the number to be elected at the general election. A 1985 statute provides an optional form in which seven councilmen are elected, five from wards and two at-large.

## **Qualifications**

### **A. Villages**

No person can be a trustee unless he is at least 21 years old, a citizen of the United States, inhabitant of the village in which he is elected, and has lived there for one entire year immediately preceding his election.

### **B. Fourth Class Cities**

A member of the board of aldermen of a fourth class city must be 21 years of age, a citizen of the United States, and an inhabitant and resident of the city for one year next preceding his election, and a resident at the time he files and during the time he serves, of the ward from which he is elected.

### **C. Third Class Cities**

A councilman in a third class city must be at least 21 years old, a citizen of the United States, and an inhabitant of the city for one year immediately preceding the election. In addition, he must be a resident of the ward from which he is elected for six months immediately prior to the election.

#### **D. Third Class Council-Manager**

The requirements for a councilman in a third class council-manager city are the same as for any other third class city, except that there is no requirement that the councilman be a resident “of the ward from which he is elected” unless councilmen are elected from a ward as permitted by a 1985 statute.

#### **Additional Requirements – payment of taxes and user fees.**

Several state statutes set requirements for candidates for municipal office in regards to the payment of municipal taxes and users fees.

- RSMo 115.346 states “...no person shall be certified as a candidate for a municipal office, nor shall such person's name appear on the ballot as a candidate for such office, who shall be in arrears for any unpaid city taxes or municipal user fees on the last day to file a declaration of candidacy for the office.”
- RSMo 71.005 states “No person shall be a candidate for municipal office unless such person complies with the provisions of section 115.346, RSMo, regarding payment of municipal taxes or user fees.”
- RSMo 79.250 which applies to elected officers in fourth class cities states “No person shall be elected or appointed to any office who shall at the time be in arrears for any unpaid city taxes”
- RSMo 77.380 which applies to elected officers in third class cities states “No person shall be elected or appointed to any office who shall at the time be in arrears for any unpaid city taxes, or forfeiture or defalcation in office.”

#### **Removal From Office**

##### **A. Villages**

The state statutes provide villages with limited ability to remove officers. § 80.080 RSMo provides that the board of trustees may “punish any member...for disorderly behavior in their presence, and with the concurrence of four of the trustees, expel any member, but not for a second time for the same cause”. A 1995 court case interpreted this to mean that four trustees may expel a member from a meeting, but not for the remainder of the member’s term.

##### **B. Fourth Class Cities**

An alderman in a fourth class city can be removed from office for cause shown by the mayor with the consent of a majority of the board of aldermen, or without the concurrence of the mayor with a vote of two-thirds of the members of the board of aldermen.

##### **C. Third Class Cities**

A member of the city council may be removed by the mayor with the concurrence of a majority of all the members elected to the city council. It takes two-thirds of the members of the city council to remove a councilman if the mayor does not agree. The councilmen or any elected official under the mayor-council form may be recalled by the voters if petitions are signed by 25 percent of the registered voters.

#### **D. Third Class Council-Manager Cities**

It appears that councilmen are removed in a third class council-manager city in the same manner as they are in other third class cities.

### **Statutory Duties Of Councilmen**

The duties of a city councilman can be summarized as follows:

A. The principal purpose of any city council is to create the laws by which the city operates; these laws are called "ordinances." In fourth class cities and third class cities (except council-manager cities), however, the mayor can veto any ordinance, and it takes a two-thirds vote to override that veto. The power of the city council is not so limited in villages or in third class council-manager cities. The authority of any particular city council to enact ordinances is closely restricted by state law. In general, it may be said that villages do not have as much authority as fourth class cities, fourth class cities do not have as much authority as either type of third class city. Neither kind of third class city has as much authority as a home rule city. The restrictions upon any particular city council's authority bears absolutely no relationship to logic or the needs of the citizenry. It may be in the city's best interest to refer all ordinances to the city attorney before they are adopted.

B. The power to tax rests exclusively with the city council. The city council determines what the tax rate will be within certain limits laid down by state statutes. Because of the Hancock Amendment to the Missouri Constitution, any new or increased tax must be approved by the electorate.

C. The city council has a considerable amount of control over the spending of all funds that come into the possession of the city. (Some funds the city acquires are for specific, designated purposes.) The veto power of the mayor somewhat limits the council's authority. This is particularly true in a third class city without council-manager government in that the mayor has line item veto authority over all appropriations.

D. Although it generally is thought that the mayor appoints the city officers in his administration that is not always the case:

1) In villages, the board of trustees appoints the mayor and the clerk. Presumably, any other officers also would be appointed by the board of trustees.

2) The mayor in a fourth class city appoints officers, subject to the approval of the board of aldermen. The only exception is the city clerk. When there is a nonelective office of city clerk, the clerk is "selected" by the board of aldermen.

3) Most officers in a third class city may be elected by the voters: mayor, municipal judge, attorney, assessor, collector, treasurer and marshal. However, the city council has the power to adopt an ordinance to provide for the appointment, rather than the election, of all officers, except mayor and councilmen.

The city council in third and fourth class cities also may abolish the office of marshal and provide for an appointed chief of police. In a fourth class city, the approval of the voters is required. The selection of that chief of police would be made by the mayor with the approval of the council. It has become customary in some third class cities that the city council hire a “city counselor” in addition to the elected city attorney. The city counselor will advise the city council on matters of law, while the city attorney generally will represent the city in municipal court.

4) In third class council-manager cities, the city council selects the city manager who appoints all other officers in the city, except the city clerk, city treasurer and city assessor.

## **COUNCIL PROCEDURES**

Rules of procedure are designed to expedite the meetings of city councils, boards of aldermen, boards of trustees and commissions. Rules of procedure provide for a uniform, orderly procedure; conserving time while also making certain that all business is properly handled.

Missouri laws do not require a municipality to adopt rules of procedure, though they do provide that they may do so. It is, however, common practice for a city council either to adopt such rules of its own as it may determine it needs or to provide that Roberts Rules of Order shall be its guide. Generally, the ordinances indicate the rules or indicate that Roberts Rules are adopted unless statutes indicate a definite procedure, such as the number of votes to be cast in certain instances.

The rules, generally adopted by ordinance or resolution, should make provision for the time and place of regular meetings, how and by whom special meetings shall be called, what constitutes a quorum, procedure for recognition of a speaker, voting procedure, how motions and resolutions shall be presented, appointment of committees and provision for suspending rules. Generally, suspension of rules requires a two-thirds majority of the council membership. In some cities, the rules prescribe the amount of time a speaker appearing before the governing board shall be allowed for an oral presentation and provide that he may be allowed additional time by a two-thirds vote of the membership. The purpose of this rule is to bar any one speaker from infringing upon the rights of others who may wish to appear at the same meeting. It also helps to eliminate five- and six-hour council meetings.

### **Agendas**

The Missouri Open Meetings and Records Law requires that a tentative agenda be posted twenty four hours prior to the start of the any meeting. Following a written agenda provides a convenient method for conducting a meeting. Usually, this agenda will be prepared several days in advance of the meeting by the mayor, clerk or city manager and distributed to members of the council or board. This gives council members an opportunity to familiarize themselves with the pending business, to investigate items of particular interest in advance, and to check viewpoints of their constituents before making a crucial vote.

### **Basic Parliamentary Procedure**

Parliamentary procedure is designed to ensure that the will of the majority prevails and that the right of the minority to be heard is protected. In the hands of the presiding officer it should be a tool, not a bludgeon. Not only the mayor, but all members of the council or board should be familiar with the rudiments of parliamentary procedure so that decorum is preserved, business is expedited and citizen respect is maintained. But remember, the best parliamentary guide still is respect for one's fellow members and preservation of the majority rule.

The object of parliamentary rules is to preserve decorum at the meetings. They also assist members by confining the debate and discussion to one question at a time. When in doubt about

strict parliamentary law, a chairman should simply strive to keep order and follow the wishes of the majority. The breaking of parliamentary rules of order does not invalidate an action of the council, but it can disrupt it. A Model Rules of Order and Council Procedures is included at the end of this chapter.

### **Conduct Of Meetings**

It should be the objective of a presiding officer to avoid too much informality, because it can result in confusion and leave the impression that the city's business is not being handled with efficiency and effectiveness. Since municipal government is about the only level of government with which many citizens ever come in direct contact, they well may develop a negative impression of government in general.

A councilmember always must remember that he is on public display during the meeting. A first impression may be a lasting one in the mind of the visitor. Thus, the physical arrangement of the council chambers is important. The council members should be set apart from the rest of the room, whether grouped on an elaborate raised dais with individual desks and microphones or simply seated at one end of a large table. All members should be visible to the public. No councilman should sit with his back to visitors, even in the smallest board room.

There should be chairs available to visitors and room for them to enter and to leave the chambers without disrupting the meeting. Special provision for a table and chairs for the press also should be provided. If possible, copies of the meeting's agenda should be available in an easy-to-reach location.

There should be a place where a person addressing the council can stand. In some places visitors are allowed to rise in their place to address the council, and in others, they must come forward before the council. In either event, a visitor should be able to see all the council members he is addressing.

### **Addressing The Council**

In both conversations between councilmen and from the public to council, an air of formality should be maintained. It is wise to leave first names at the door for the duration of the meeting. Members should address one another as "Mr. \_\_\_\_\_" and speak to the chair as "Mr. Mayor" or "Mr. President." At all times during discussion, a councilman's remarks should be directed to the chair. Even when answering the statement of another councilman, a member should begin by saying, "Mr. Mayor, if you will permit me..." and should wait for recognition from the chair before proceeding. This helps avoid the rather sorry spectacle of two councilmen haggling between themselves over a matter in which the others have no interest or on which there is high feeling.

**It is important to note that there may be times during one's term of office when certain issues will cause disagreement among councilmembers. However, focus always should be on the issue at hand, not personalities.**

It is the duty of the chairman to keep order at all times. If a verbal battle between councilmen seems to be developing, he immediately must restore calm. At times it will take a rather strong-willed person to do this, and often it must be with the admonishment of "Mr. \_\_\_\_\_, you are out of order."

If decorum is maintained by the council, a citizen rising to speak naturally will follow suit. In most cases, visitors to the council who desire to speak are requested to give their names and addresses for the record. In fact, some cities require a visitor wishing to speak to fill out a prescribed form before the council meeting, giving his name, address and the subject on which he wishes to comment. If a councilmember desires to ask a question of the citizen after he has spoken, the councilmember should wait until the chair asks for questions or make the request directly to the chair. In no case should he rudely interrupt to ask a question. Also, there never should be any quarreling between councilmembers and citizens. Often, if a citizen is there to speak, it means he has a real gripe and is angry with the council. In such a case, if the citizen cannot contain his anger, the councilmember must. And, if neither can stand the strain, then the chair must interrupt and take over.

### **General Discussion**

During the course of a meeting, there should be ample opportunity for the council to discuss every item on the agenda. Sometimes this discussion is not the prelude to a vote, but simply an expression of opinion or question. It is this type of discussion that can get out-of-hand and lead to lengthy meetings and frayed nerves. Some councils have written into the Rules of Procedure a limitation on debate that allows a councilman to speak only once on a subject until everyone else desiring to speak has had a turn and sets a time limit on any councilman's discussion of perhaps 10 to 15 minutes.

Remarks of councilmen should be limited to the matter at hand. Round table discussions of philosophy of government are very interesting and can be informative, but they do not belong in a council meeting. The exception to this rule might be in letting the public know why an action is being taken.

### **Citizen Participation**

Citizen participation is distinguished from a public hearing. A public hearing is a formally designated time for discussion of a specific topic, from budgets to rezoning. The citizen participation period is a time set aside for visitors to express themselves to council on any subject.

Councils vary in the place on the agenda for citizen participation, and some councils do not list it as an agenda item, allowing the visitors to comment after pertinent discussions. Some councils make no effort at all to hear from visitors. The place on the agenda varies from the first item of business to the last. However, regardless of the time designated, the mayor should make a point of informing visitors when they may expect to speak. If the mayor knows that an exceptionally controversial item has drawn a large crowd, he would be wise to state the time such an item is expected to come up for discussion. Woe unto the mayor and council who let a

large crowd sit and wait throughout a four-hour meeting and then postpone the item that drew the crowd!

When a visitor is addressing the council, all members should be attentive and listen politely. If the speaker is taking too much time, drifting from the subject or is personally abusing councilmembers, the mayor should be the person to cut off the speech. Even though one must be polite, it is not necessary to be intimidated by a rude speaker. He often irritates everyone else in the room as much as the council and should be cut off as quickly and painlessly as possible.

## **Public Hearings**

At the start of any public hearing the chair should state the topic for consideration. If, for instance, it is a rezoning hearing, there should be a reading of the ordinance and an explanation of what is requested. On any subject that is controversial the following procedure should be followed: proponents' presentation, opponents' presentation, proponents' rebuttal, opponents' rebuttal, questions from council. If it simply is a hearing for the purpose of obtaining public opinion, such as on the budget, citizens should be allowed to speak in the order they request recognition. It always is the chair's right to determine the order of speakers.

The chair should explain at the beginning of the hearing how much time will be allowed for each side. It usually is up to the speakers to divide this time among themselves, though the chair may take a count through a show of hands and suggest a time limit for each speaker. However, if it becomes obvious after the specified time has elapsed that more discussion should be allowed, the chair may extend the time limit. In no instance should a speaker using filibuster tactics be allowed to control a hearing.

One cardinal rule to remember is **numbers don't always count**. There are some topics that naturally draw large, highly partisan crowds. Very vocal minorities may try to swamp a public hearing to show their side is right. Such items as little league ballparks, school crosswalks, street improvement districts, water rates or any tax matter will attract great numbers of visitors. **The size of the crowd does not indicate whether their cause is just**. The council is elected to serve all the citizens, and a councilman must look at the overall picture, not just at the picture presented by a partisan group.

The purpose of a public hearing is to present evidence on both sides of a question. The council is charged with the responsibility of weighing the evidence, and after due consideration, reaching a decision. Obviously, this cannot always be done at the same meeting as the public hearing. In fairness to those who have taken the time to attend, it might be wise if the chair could give an indication as to when such a decision will be reached. If it is obvious that council will be able to come to a conclusion with a minimum of discussion, the decision may be made immediately after the hearing and the result announced. Otherwise, the chair should state the reason no decision will be made at that time and give a probable time for the announcement of the result.

When a decision is announced on a question that involves a public hearing, it is wise for the chair, or individual councilman, to give the reasons such a decision was reached. Even a brief explanation will help prevent observers from feeling the decision was made long before the public hearing was held.

To safeguard the actions taken as a result of public hearings, it is advisable to have a verbatim transcript of all hearings that might lead to a challenge in court, such as liquor licenses, zoning or election issues.

## **Methods Of Voting**

There is a variety of voting methods used by councils in Missouri. The most common method is having the chair call for the vote by saying, "Those in favor of the motion signify by saying 'aye,'" and "Those opposed, by the same sign." This is a "voice vote" and often is used on relatively noncontroversial items. To make sure it is properly entered in the record, the chair must announce the result of the vote by saying "the 'ayes' have it and the motion is carried," or "the 'noes' have it and the motion is defeated." The same result can be accomplished by asking for a show of hands, which has the added advantage of indicating to the audience how the various councilmen are voting.

On roll call votes, each councilman is polled individually for his vote. Many councils are polled in the same order on each roll call, whether this is by alphabetical order or by seating arrangement. However, this can place the first councilman to vote each time in a difficult position and give the last councilman an unfair advantage in always knowing what effect his vote will have on the motion.

To counteract this problem, some councils have worked out systems of alternating the voting order. In some cases the order is alternated with each meeting, with each roll call at one meeting being taken in the same order. Other councils will vary the roll call with each vote, moving the top man to the bottom and all other names up one space. Occasionally, the person taking the roll is instructed to call names in random order with each vote.

## **Minutes**

Cities and villages are required by state statute to keep a record of the proceedings of the governing body. The recorder, usually the City Clerk, shall include the following in the minutes of each meeting:

1. Name - Meeting of the City Council of \_\_\_\_\_, Missouri;
2. Kind of meeting (regular, work-session, adjourned or "called" meeting, the "call" should be included);
3. Place and date of meeting;
4. Officer presiding;

5. Members present;
6. Members absent;
7. Subordinate officers or guests appearing;
8. Statement of whether previous minutes were read and approved;
9. All motions made and reports given and the disposition of same;
10. The decision in each point of order arising;
11. A complete record of what is done, though not what is said, except that the remarks of any speaker at his request, or at the request of any member of the city council shall be recorded;
12. The time and place of reassembling, unless it be the regular meeting time and place; and
13. The signature of the recorder and the chairman at the time the minutes are approved.

In addition to having a clerk take notes at each meeting, some cities and villages record the proceedings of the council meetings. The tapes later may be used for transcribing or may be saved for a specified period of time in order to have a complete record of the proceedings. In some instances, a council may use a court reporter for making a record of the meeting.

Copies of minutes of each meeting should be distributed to individual members of the council. These copies may be a summary of the official minutes and could, for instance, include only the title of ordinances or resolutions adopted. Such ordinances, however, should be included in full in the official copy of the minutes. Records such as this must be available to the public.

### **Open Meetings Law**

In 1987, the Missouri General Assembly modified the Open Meetings and Records Law to provide an equitable balance between the right of the public to know how government is conducting public business and the right of government officials to be protected from frivolous or vindictive prosecution. Minor changes to the law also have been made since then.

### **Scope Of The Law**

A public governmental body is defined as any legislative, administrative governmental entity created by the constitution or statutes of this state, by order or ordinance of any political subdivision or district, judicial entities when operating in an administrative capacity or by executive order.

This includes governing bodies of institutes of higher education including community colleges; and any department of any political subdivision of the state, county or municipal government, school district or special-purpose district including sewer and water districts.

Quasi-public governmental bodies also are included.

The law defines “public meeting” as “any meeting of a public governmental body...at which any public business is discussed, decided or public policy formulated, whether such meeting is conducted in person or by means of communication equipment, including, but not limited to, conference call, video conference, Internet chat, or Internet message board.” The law further suggests that the term “public meeting” shall not include an informal gathering of members of a governmental body for ministerial or social purposes when there is no intent to avoid the purposes of the law. This definition allows department meetings for ministerial purposes; since city departments seldom formulate public policy, it seems that all such meetings are ministerial and may be exempt from the law.

The law defines “public record” as “any record, whether written or electronically stored, retained by or of any public governmental body including any report, survey, memorandum, or other document or study prepared and presented to the public governmental body by a consultant or other professional service paid for in whole or in part by public funds.” Apparently, consultant reports may be closed until they are presented to the city council at which time they become a public record.

### **Exemptions From Open Meetings/Records**

RSMo 610.021 provides specific exemptions from the open meetings and records requirements. Municipal officials should be aware of the following specifically exempted records and meetings:

1. Legal actions, causes of action or litigation involving a public governmental body and any confidential communications between a public governmental body and its attorneys (except the vote on condemnation decisions);
2. Lease, purchase or sale of real estate;
3. Hiring, firing, disciplining or promoting an employee (except that the vote in these decisions must be made available to the public within 72 hours);
4. Discussions between a governmental body and its representatives in preparation for negotiations with employee groups and all work products developed in preparation for negotiations with employee groups;
5. Specifications for competitive bidding until the specifications are approved by the governing body or published bids;
6. Sealed bids and related documents until the bids are opened or all bids are accepted or all bids are rejected;

7. Individually identifiable personnel records, except the names, positions, salaries and length of service of employees;
8. Records relating to municipal hotlines established for the reporting of abuse and wrongdoing;
9. Operational guidelines and policies developed, adopted, maintained by any public agency responsible for law enforcement, public safety, first response, or public health for use in responding to or preventing any critical incident which is or appears to be terrorist in nature; and
10. Existing or proposed security systems and structural plans of real property owned or leased by a public governmental body, the public disclosure of which would threaten public safety.

Other meetings and records must be open to the public unless otherwise provided by law. Municipal officials should be very careful in ensuring full compliance with the state open meetings and records law. If in doubt about whether a particular meeting or record should be closed do not hesitate to ask your staff, your city attorney, MML staff or the Attorney General's office.

### **Notice Of Public Meetings**

The law requires each public governmental body to give notice of the time, date, place and tentative agenda of each meeting in a manner reasonably calculated to inform the public of the matters to be considered. Reasonable notice includes making copies of the notice available to any representative of the news media who requests notice of a particular meeting and posting the notice at a prominent place that easily is accessible to the public and clearly designated for that purpose at the principal office of the governing body, or, if no such office exists, at the meeting place. Notice must be given at least 24 hours, exclusive of weekends and holidays when the facility is closed, prior to any meeting of a governmental body unless for good cause such notice is impossible or impractical. In such cases, officials must give as much notice as is reasonably possible.

Public meetings must be held at a place reasonably accessible to the public, of sufficient size to accommodate the anticipated attendance, and at a reasonably convenient time, unless for good cause such a place or time is impossible or impractical. Officials must make a reasonable effort to grant special access to the meeting to handicapped or disabled individuals.

Whenever city officials depart from any of the above requirements, the nature of the good cause justifying the departure must be stated in the official minutes.

## **Procedures To Close A Meeting**

If a public governmental body decides to hold a closed meeting, record or vote, they must give notice of the time, date and place of the meeting and the reason for holding the closed session by reference to the specific exemption allowed in the law. As with open meeting notices, such notice must be posted 24 hours prior to the time of the closed meeting exclusive of weekends and holidays when the facility is closed. No tentative agenda is required (*Attorney General's Opinion 97-90*). Before closing a meeting, record or vote, the governmental body must publicly vote on the question of closing the meeting, and the question must receive an affirmative vote of a majority of the quorum of the body. The vote of each member of the body and the reason for closing the session by reference to the specific exemption must be announced at an open session and entered into the minutes. The closed meeting shall be held only for the specific, announced reason; **other business, which does not directly relate to the reason announced as justification for the closed meeting, must not be discussed.** If a member of a public body thinks a meeting, record, or vote is being closed in violation of the Sunshine Law, the member should state an objection at or before the time of the vote on the improper motion is made, and have the objection entered into the minutes. The objection accompanied by a vote against closing the meeting, record or vote in question, acts as an absolute defense in any claim for violations of the Sunshine Law.

## **Custodian Of Records**

Each governmental body must appoint a custodian of records who is to be responsible for the maintenance of records and to receive and process requests for copies of records. Each request must be acted upon within three business days, or the custodian must explain in writing the reason for the delay and state the place and earliest time and date the record will be available for inspection. If access is denied, the custodian must provide, upon request, a written statement of the grounds for denial, citing the specific provision of the law that provides for closing the record.

The governmental body may charge up to 10 cents per page for standard copies and the actual cost of the copy for larger or specialized documents (such as maps, photos and graphics). The body also may charge a reasonable fee for the time necessary to search for and copy public records. Research time may be charged at the actual cost incurred to locate the requested records. Copying time shall not exceed the average hourly rate of pay for clerical staff of the public body. Payment of these fees may be requested prior to the making of copies. A public body may reduce or waive costs when it determines the request is made in the public interest and is not made for commercial purposes

## **Written Policy Required**

Each governmental body must adopt a written policy in compliance with the Open Meetings and Records Law regarding the release of information on any meeting, record or vote. Sample policies are available from League headquarters.

## **Penalty Provisions**

If the court finds a public governmental body has violated the Sunshine Law, it may declare void any action taken in violation of the law. If the court finds, by a preponderance of evidence, that the public body or a member of the public body has knowingly violated the Sunshine Law, the court:

- Shall subject the member or body to a civil fine of up to \$1,000; and may order the member or body to pay all costs and reasonable attorney fees to any party successfully establishing a violation.

If the court finds, by a preponderance of evidence, that the public body or member has purposely violated the Sunshine Law, the court shall:

- Subject the member or body to a civil fine of up to \$5,000; and order the member or body to pay all court costs and reasonable attorney fees.

## **Importance Of City Attorney**

The law permits a public governmental body, which is in doubt about the legality of closing a particular meeting, record or vote, to seek a formal opinion of the attorney general or the city attorney or to bring suit in circuit court at the city's expense to ascertain the propriety of such action.

The law also authorizes any governmental body to provide for the legal defense of any member charged with a violation of the Open Meetings and Records Law. This provision ensures that a member of the governmental body does not have to bear the financial hardship of retaining legal counsel when charged with a violation of the law. Obviously, most municipal officials will rely on the advice of the city attorney. Therefore, it is extremely important that city attorneys be knowledgeable of the provisions of the Open Meetings and Records Law.

## Sample Forms

For your convenience, sample forms developed by the Office of Attorney General are provided on the following pages:

**Resolution.** This is a requirement of the Revised Sunshine Law and may be adopted by public governmental bodies as required by Section 610.028, RSMo. (page 35)

**Notice Of Open Meeting.** This is a suggested form and has not been approved by the judiciary as meeting the requirements of the Sunshine Law. This form is intended for use when a public governmental body plans to conduct an open meeting. (page 36)

**Notice Of Closed Meeting.** This is a suggested form and has not been approved by the judiciary as meeting the requirements of the Sunshine Law. This form is intended for use when a public governmental body has previously publicly voted to close its meeting and otherwise acted in conformity with state law. (page 37)

**Notice Of Vote To Close Meeting.** This is a suggested form and has not been approved by the judiciary as meeting the requirements of the Sunshine Law. This form is intended for use when a public governmental body plans to conduct a closed meeting but has not yet publicly voted to close the meeting and otherwise acted in conformity with state law. (page 38)

**Notice Of Open Meeting And Vote To Close Part Of The Meeting.** This is a suggested form and has not been approved by the judiciary as meeting the requirements of the Sunshine Law. This form is intended for use when a public governmental body plans to conduct a meeting that is partially open and partially closed but has not yet publicly voted to close the meeting and otherwise acted in conformity with state law. (page 39)

## RESOLUTION

**WHEREAS, [Section 610.023.1](#)**, RSMo, provides that a public governmental body is to appoint a custodian to maintain that body's records and the identity and location of the custodian is to be made available upon request; and

**WHEREAS, [Section 610.026](#)**, RSMo, sets forth that a public governmental body shall provide access to and, upon request, furnish copies of public records; and

**WHEREAS, [Section 610.028.2](#)**, RSMo, provides that a public governmental body shall provide a reasonable written policy in compliance with sections [610.010](#) to [610.030](#), RSMo, commonly referred to as the Sunshine Law, regarding the release of information on any meeting, record or vote.

### **NOW, THEREFORE, BE IT RESOLVED:**

1. That (*insert name of custodian*) be and hereby is appointed custodian of the records of (*insert name of public governmental body*) and that such custodian is located at (*insert specific location, including room, street, address, city and state*).
2. That said custodian shall respond to all requests for access to or copies of a public record within the time period provided by statute except in those circumstances authorized by statute.
3. That the fees to be charged for access to or furnishing copies of records shall be as hereinafter provided: (*Insert fee schedule. Note: Fees may not exceed 10 cents per page for paper copies 9 by 14 or smaller, plus an hourly fee for duplicating time not to exceed the average hourly rate of pay for clerical staff of the public governmental body. Research time may be billed at actual cost.*)
4. That it is the public policy of (*insert name of public governmental body*) that meetings, records, votes, actions and deliberations of this body shall be open to the public unless otherwise provided by law.\*
5. That (*insert name of governmental body*) shall comply with sections 610.010 to 610.030, RSMo, the Sunshine Law, as now existing or hereafter amended.

*\* Note a more detailed sample policy available from the League takes a more proactive step declaring that all records that can be legally closed are closed.*

**NOTICE OF OPEN MEETING**

\_\_\_\_\_  
(date and time notice was posted)

Notice hereby is given that the \_\_\_\_\_ (insert name of public governmental body) will conduct a meeting at \_\_\_\_\_ (insert time) on \_\_\_\_\_ (insert day, month and year) at \_\_\_\_\_ (insert place where meeting is to be held).

The tentative agenda of this meeting includes:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Representatives of the news media may obtain copies of this notice by contacting:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

**NOTICE OF CLOSED MEETING**

\_\_\_\_\_  
(date and time notice was posted)

Notice hereby is given that the \_\_\_\_\_ (insert name of public governmental body) having duly voted to close its upcoming meeting, as authorized by \_\_\_\_\_ (insert statutory authority to close meeting) will conduct a closed meeting at \_\_\_\_\_ (insert time) on \_\_\_\_\_ (insert day, month and year) at \_\_\_\_\_ (insert place where meeting is to be held).

Representatives of the news media may obtain copies of this notice by contacting:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

**NOTICE OF VOTE TO CLOSE MEETING**

\_\_\_\_\_  
(date and time notice was posted)

Notice hereby is given that the \_\_\_\_\_ (insert name of public governmental body) will conduct a meeting at \_\_\_\_\_ (insert time) on \_\_\_\_\_ (insert day, month and year) at \_\_\_\_\_ (insert place where meeting is to be held).

The tentative agenda of this meeting includes a vote to close this meeting pursuant to \_\_\_\_\_ (insert type of exemption) in \_\_\_\_\_ (insert statutory authority for vote to close meeting).

Representatives of the news media may obtain copies of this notice by contacting:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

**NOTICE OF OPEN MEETING AND  
VOTE TO CLOSE PART OF THE MEETING**

\_\_\_\_\_  
(date and time notice was posted)

Notice hereby is given that the \_\_\_\_\_ (insert name  
of public governmental body) will conduct a meeting at \_\_\_\_\_ (insert time)  
on \_\_\_\_\_ (insert day, month and year) at  
\_\_\_\_\_ (insert place where meeting is to be held).

The tentative agenda of this meeting includes:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The tentative agenda of this meeting also includes a vote to close part of this meeting  
pursuant to \_\_\_\_\_ (insert statutory authority for vote to  
close meeting).

Representatives of the news media may obtain copies of this notice by contacting:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

## Sample Rules Of Order And Council Procedure

### Article I. MEETINGS

- 1.01 REGULAR MEETINGS. The council shall meet in regular session on the \_\_\_\_\_ of each month at \_\_\_\_\_ p.m. When a holiday occurs on any such Monday, the regular meeting shall be held on Tuesday at the same hour unless otherwise provided for by motion.
- 1.02 LOCATION. The place of the regular meetings shall be the council chamber in the city hall.
- 1.03 OPEN TO PUBLIC. All meetings of the city council, planning commission, board of zoning adjustment, and all other boards, commissions, committees and agencies of the City of \_\_\_\_\_, and any committee or subcommittee thereof, shall be deemed to be public meetings, open to the public, except as otherwise provided by law.
- 1.04 SPECIAL MEETINGS. Special meetings may be called by three or more members of the council or by the mayor. The \_\_\_\_\_ is directed to prepare a written notice of any special meeting, setting forth the name of the committee, board, commission or agency, the date and time of such meeting, the place such meeting is to be held, and the general subject matter to be discussed. Such written notice shall be prepared as soon as practicable after the announcement of any such special meeting and shall be prominently displayed on a bulletin board in the lobby of the city hall. Such bulletin board shall be designated or marked so as to identify that all notices posted thereon shall pertain to “special meetings.”
- 1.05 EXECUTIVE (CLOSED) SESSION. An executive session may be convened on call of the mayor or by a majority vote of the members of the council. Closed meetings may be called on the following issues: legal actions or litigation involving the city; lease, purchase or sale of real estate where public knowledge of the transaction might have adverse effects; hiring, firing, disciplining or promoting city personnel; and discussions between a governmental body and its representatives in preparation for negotiations with employee groups.
- Attendance shall be limited to councilmembers; provided, however, that the council may invite such persons as may be required for advice and information.
- 1.06 QUORUM. \_\_\_\_\_ members of the council shall constitute a quorum to do business, but no action thereof shall be valid unless at least \_\_\_\_\_ (a majority of those elected to the council) shall vote in favor of such action.

## Article II. DUTIES AND PRIVILEGES OF MEMBERS

- 2.01        SEATING. Members shall occupy their respective seats in the council chamber assigned to them by the mayor.
- 2.02        RIGHT OF FLOOR. When recognized by the chair, a member shall confine himself to the question under debate, avoid personalities and refrain from impugning the motives of any other member's argument or vote. No member shall address the chair or demand the floor while any vote is being taken.
- 2.03        PERSONAL INTEREST. No member stopped from voting by personal interest shall remain in the council chamber during the debate and vote on any such matter.
- 2.04        RIGHT OF APPEAL. Any member may appeal to the council from a ruling of the presiding officer. If the appeal is seconded, the member making the appeal may briefly state his reason for the same, and the presiding officer may briefly explain his ruling; but there shall be no debate on the appeal, and no other member shall participate in the discussion. The presiding officer then shall put the question, "Shall the decision of the chair be sustained?" If a majority of the members present vote "aye," the ruling of the chair is sustained; otherwise, it is overruled. For purposes of this section, the chair may not vote on the question. A tie vote sustains the chair.
- 2.05        VOTING. When a question is put, every member present shall vote either "aye" or "no," unless council shall, for special reason, excuse him from voting. Application to be excused from voting must be made before the votes are called for. The member having briefly stated the reason for his request, the decision thereon shall be made without debate.
- 2.06        ROLL CALL. Upon every vote the "ayes" and "noes" shall be called and recorded and every motion, resolution and ordinance shall be reduced to writing before the vote is taken thereon.
- 2.07        DISSENTS AND PROTESTS. Any member shall have the right to express dissent from or protest against any ordinance or resolution of council and have the reason therefore entered upon the minutes. Such dissent or protest must be filed in writing, couched in respectful language, and presented to council not later than the next regular meeting following the date of passage of the ordinance or resolution objected to.

## Article III. THE PRESIDING OFFICER

- 3.01        MAYOR. The city council shall, at the time of organizing, elect one of its members as mayor pro tem for a term of one year. The mayor shall preside at all meetings of the council and shall have a voice and vote in its proceedings, but may vote only to break a tie.

- 3.02 ABSENCE OF MAYOR. In the absence of the mayor, the duties of the mayor shall be performed by the mayor pro tem.

#### Article IV. PROCEDURES AND PARLIAMENTARY RULES

- 4.01 ORDER OF BUSINESS. The business of all regular meetings of the council shall be transacted in the following order, unless the council by a majority vote of members present votes to suspend the rules and change the order.

1. roll call
2. minutes
3. consideration of any bids
4. public participation
5. communications, petitions
6. old business (2nd reading of ordinances)
7. new business
8. miscellaneous
9. adjournment

- 4.02 PRECEDENCE OF MOTIONS. When a question is before the council, no motion shall be entertained except:

1. to adjourn
2. to fix hour of adjournment
3. to lay on table
4. for previous question
5. to postpone to a certain day
6. to refer
7. to amend
8. to postpone indefinitely

These motions shall have precedence in the order indicated. Any such motion, except a motion to amend, shall be put to a vote without debate.

- 4.03 MOTIONS TO BE STATED BY CHAIR – WITHDRAWAL. When a motion is made and seconded, it shall be stated by the chair before debate. Any member may demand that it be put in writing. A motion may not be withdrawn by the mover without the consent of the member seconding it and the approval of council.

- 4.04 MOTIONS OUT OF ORDER. The presiding officer may at any time, by a majority vote of the council, permit a member to introduce an ordinance, resolution or motion out of the regular order.

- 4.05 MOTION TO ADJOURN – WHEN NOT IN ORDER, NOT DEBATABLE.  
A motion to adjourn shall be in order at any time, except as follows:  
a) when repeated without intervening business or discussion; b) when made as an interruption of a member while speaking; c) when the previous question has been ordered; and d) while a vote is being taken. A motion to adjourn is debatable only as to the time to which the meeting is adjourned.
- 4.13 RECONSIDERATION. After the decision on any question, any member who voted with the majority may move a reconsideration of any action at the same or the next succeeding meeting, provided, however, that a resolution authorizing or relating to any contract may be reconsidered at any time before final execution thereof. A motion to reconsider requires a simple majority for passage. After a motion for reconsideration has once been acted on, no other motion for a reconsideration thereof shall be made without unanimous consent.
- 4.14 PROCEDURE IN ABSENCE OF RULE. In the absence of a rule to govern a point or procedure, Robert’s Rules of Order shall apply.

#### Article V. ORDINANCES AND RESOLUTIONS

- 5.01 SIGNED BY MAYOR. Every resolution or ordinance passed by the council must be signed by the mayor, or in his absence, by the mayor pro tem.
- 5.02 READINGS. Any ordinance that shall have had its first reading shall be taken up by the council at its next session and shall be read the second time, and thereupon shall be open for debate and amendment. On the close of debate the presiding officer shall entertain a motion to place such ordinance on final passage.
- The motion for final passage shall not be debatable and shall take precedence over all other motions except one for adjournment. Upon being seconded, the presiding officer shall immediately put the motion to the council. If the said motion is adopted, no further debate or amendment shall be allowed, and the clerk shall immediately call the roll for its final passage. If such motion is not adopted, the ordinance shall still be open for debate and amendment until such time as a motion for final passage is adopted.
- 5.03 EMERGENCY ORDINANCES. Emergency measures shall take effect immediately upon their passage. An emergency measure is any ordinance passed by the affirmative vote of \_\_\_\_\_ members of the council for the immediate preservation of the public peace, property, health, safety or morals, in which the emergency is set forth and defined in a preamble thereto, any ordinance calling any election, or providing for the submission of any proposal to the people; any ordinance making an appropriation for the payment of principal or interest of the public debt, or for current expenses of

the city government; any general appropriation ordinance; any ordinance fixing any tax rate or assessment to be paid for by special assessment.

- 5.04 ORDINANCES, WHEN EFFECTIVE. All ordinances including emergency ordinances shall take effect upon their passage unless a later date is specifically set out in the ordinance.

## PROCEDURES TO PASS AN ORDINANCE

State statutes set forth the procedure each class of municipality must follow in order to legally pass an ordinance.

### Villages

80.100. Trustees, style of ordinances. The style of ordinances of villages organized under the provisions of this chapter shall be: "Be it ordained by the board of trustees of the village of \_\_\_\_\_, as follows."

80.110. Trustees, passage of ordinances. No ordinance shall be passed except by bill, and no bill shall become an ordinance unless on its passage a majority of all the members of the board of trustees vote therefor, and the yeas and nays be entered upon the journal; all bills shall be publicly read at a regular meeting of the board of trustees before the passage thereof, and all ordinances shall be in full force and effect from and after their passage, and being duly signed by the chairman of the board of trustees and attested by the village clerk.

### Fourth Class Cities

79.130. Ordinances, how passed. The style of the ordinances of the city shall be: "Be it ordained by the board of aldermen of the city of \_\_\_\_\_, as follows:" No ordinance shall be passed except by bill, and no bill shall become an ordinance unless on its final passage a majority of the members elected to the board of aldermen shall vote for it, and the ayes and nays be entered on the journal. Every proposed ordinance shall be introduced to the board of aldermen in writing and shall be read by title or in full two times prior to passage, both readings may occur at a single meeting of the board of aldermen. If the proposed ordinance is read by title only, copies of the proposed ordinance shall be made available for public inspection prior to the time the bill is under consideration by the board of aldermen. No bill shall become an ordinance until it shall have been signed by the mayor or person exercising the duties of the mayor's office, or shall have been passed over the mayor's veto, as herein provided.

79.140. Bills must be signed, mayor's veto. Every bill duly passed by the board of aldermen and presented to the mayor and by him approved shall become an ordinance, and every bill presented as aforesaid, but returned with the mayor's objections thereto, shall stand reconsidered. The board of aldermen shall cause the objections of the mayor to be entered at large upon the journal, and proceed at its convenience to consider the question pending, which shall be in this form: "Shall the bill pass, the objections of the mayor thereto notwithstanding?" The vote upon the journal, and if two-thirds of all the members-elect shall vote in the affirmative, the city clerk shall certify the fact on the roll, and the bill thus certified shall be deposited with the proper officer, and shall become an ordinance in the same manner and with like effect as if it had received the approval of the mayor. The mayor shall have power to sign or veto any ordinance passed by the board of aldermen; provided, that should he neglect or refuse to sign any ordinance and return the

same with his objections, in writing, at the next regular meeting of the board of aldermen, the same shall become a law without his signature.

### **Third Class Cities (Mayor-Council Form)**

77.080. Style of ordinances, how enacted. The style of the ordinances of the city shall be: "Be it ordained by the council of the city of \_\_\_\_\_, as follows:" No ordinance shall be passed except by bill, and no bill shall become an ordinance unless on its final passage a majority of the members elected to the council shall vote therefor, and the ayes and nays shall be entered on the journal. Every proposed ordinance shall be introduced to the council in writing and shall be read by title or in full two times prior to passage, both readings may occur at a single meeting of the council. If the proposed ordinance is read by title only, copies of the proposed ordinance shall be made available for public inspection prior to the time the bill is under consideration by the council. No bill shall become an ordinance until it shall have been signed by the officer presiding at the meeting of the council at which it shall have been passed. When so signed, it shall be delivered to the mayor for his approval and signature, or his veto.

### **Third Class Cities (Commission Form)**

78.040. Officers, quorum, mayor to have no veto. ...in cities having four councilmen the affirmative vote of three members, and in cities having three councilmen the affirmative vote of three members, and in cities having two councilmen the affirmative vote of two members of the council shall be necessary to adopt any motion, resolution or ordinance, or pass any measure unless a greater number is provided for in said sections. Upon every vote the yeas and nays shall be called and recorded, and every motion, resolution or ordinance shall be reduced to writing and read before the vote is taken thereon. The mayor shall preside at all meetings of the council; he shall have no power to veto any measure, but every resolution or ordinance passed by the council must be signed by the mayor, or by two councilmen, and be recorded, before the same shall be in force.

### **Third Class (Council-Manager Form)**

78.580. Quorum to do business. Three members of the council shall constitute a quorum to do business; but no action thereof shall be valid unless at least three shall vote in favor of such action. Upon every vote the yeas and nays shall be called and recorded and every motion, resolution and ordinance shall be reduced to writing before the vote is taken thereon. Every resolution or ordinance passed by the council must be signed by the mayor or in his absence by the chairman pro tem, or by two members of the council before the same shall be enforced.

## ROLES AND RESPONSIBILITIES OF AN ELECTED OFFICIAL

In addition to the skills and abilities a newly elected city official can develop and improve, you may wonder what kinds of roles and responsibilities there are in your new position. At least a partial answer to these questions is offered here for consideration.

### **Identifying Community Needs And Determining Priorities**

Each community is unique. Each has its own set of problems, and each arranges those problems in a different order of importance. How does the new official discover what the needs are, and how they should be ranked? Following are ways of uncovering the needs of the community.

**Observation:** As you go back and forth to work or to city hall, take the opportunity to look for problems that exist or are developing. You may even use a different route at times in order to see more than just one area. Even more systematic is a tour of the city with the rest of the council accompanied by the city administrator and some department heads. Such a tour especially is valuable for the newly elected official, for you might discover parts of the city you never have seen before and in general observe where the major trouble spots are located. Although there really is no substitute for first-hand observation, there must be additional methods of input of information to supplement the visual approach.

**Talking With Citizens:** Direct interaction with members of the community is desirable both politically and rationally. You should be perceived as accessible, concerned and open-minded – and will be if you make a regular practice of talking not just with friends but with strangers and with persons representing various economic levels, professions and occupations, and cultural backgrounds. In talking with citizens you should be concerned primarily with listening; you should avoid arguing or defending. Your whole attitude should be one that reflects a genuine desire to secure information. In addition to seeking information in a person-to-person setting, you can expect to get unsolicited information and criticism from citizens who seek you out.

**Reading:** As already has been indicated, a large amount of printed material comes to the attention of city officials: minutes, reports, articles, letters, recommendations, proposed state and federal legislation and much more. While much of this relates to the nature of problems and possible solutions, some of it may help you discover the needs and wishes of the community. A letter or a newspaper article may reveal a problem that previously had not surfaced. Problems in other communities that are spelled out in journals and other printed sources may cause you to ask, “Do we have that same problem in this community?”

Having defined the problems and needs of the community, you should put these needs in some order of priority. Obviously, the human and financial resources of any municipality are limited. Even if they were unlimited, the local government would not – and should not – engage in many of these activities for various reasons. The level of taxes, the demands of citizens, the availability of similar services from other agencies and many other factors make it necessary to determine, first of all, what services and activities to support and promote and then, having determined this, what the programs shall be and in what order they shall be taken up.

## **Participating In Formal Council Meetings**

The culmination of determining community needs and priorities and gathering and analyzing data related to those needs is the council meeting itself. Here, under public scrutiny and sometimes accompanied by hostility, suspicion and distrust, the municipal lawmaker must transact the business of the community.

The Sunshine Law requires that an agenda be posted 24 hours prior to the start of any meeting. An agenda is an orderly process for discussing business and making decisions. It also serves to protect the council from unproductive use of meeting time. For council meetings, the agenda usually is assembled by the city manager/administrator or city clerk. Items of business and topics for discussion should be placed on the agenda before each meeting.

During council meetings it is important that the city officials:

- 1) Appear attentive, sound knowledgeable and be relatively straightforward and meticulously honest.
- 2) Have some acquaintance with a systematic and efficient way of handling business that is brought before the council. This includes the development of an agenda that outlines the order in which items of business are to be considered. This agenda should be concise, readily understandable and provide opportunity for the general public to address the council as well as make it possible for the city officials themselves to bring up items of business they would like to have discussed.
- 3) Bring to the meeting all appropriate documents, notes and memoranda. The material should be arranged in the same order as the agenda so that pertinent data can be consulted immediately.
- 4) Be equipped with a reasonable knowledge of parliamentary procedure to keep the meeting moving smoothly and efficiently, with a clear indication as to the exact disposition of each item. However, too much attention on procedure can cause the meetings to bog down in complicated rules.
- 5) Make every attempt to eliminate personal remarks that are intended to ridicule or “put down” another person. Regardless of the actual relationships between one official and another, the general atmosphere of any council meeting should be relaxed, friendly, efficient and dignified. Sarcasm, innuendoes and name-calling are approaches to be avoided in interacting with other officials, staff and the general public. This does not mean to suggest that falsehoods, misinterpretations, distortions and challenges to one’s integrity or honesty should be left unanswered. They should be answered, and sometimes vigorously, but these rejoinders should address the facts rather than the qualities of the person being addressed.

Public hearings are a type of formal council meeting. Such hearings, which are mandatory for some business matters, should be viewed as a serious effort on the part of city officials to

secure as much information as possible about the matter before a final decision is made. Two general suggestions can be made with respect to the conduct of public hearings:

- 1) **City officials should do everything possible to encourage as much participation in the discussion of the issue as possible.** Although limits may have to be placed on how much time any individual can talk, everyone who wishes to be heard should be allowed “their day in court.” Public hearings can be tiring, and there is a temptation to close the discussion before everyone has spoken. Officials should resist this temptation and err in the direction of permitting “overtalk” rather than “undertalk.” In general, city officials should avoid debating with citizens at a public hearing; instead, they should encourage the individual to express himself. You can help in this process by looking directly at the person talking, by using nonverbal cues such as nodding affirmation, and physically leaning in the direction of the speaker. At the same time try to avoid such negative, nonverbal cues as scowling, appearing to read a paper or other document, talking to another official, or using facial expressions that suggest ridicule or contempt.
  
- 2) **City officials must be careful to avoid being trapped into accepting the view that the number of citizens who speak on one side of an issue should determine the nature of the decision to be made.** Although the numbers speaking on one side may be employed as one factor in arriving at a solution, it should not be the only factor. There is no easy way to determine to what extent the speakers represent their claimed constituents; the other side may be far more numerous but far less vocal. Decisions should be the result of a careful balancing of the facts and arguments both from the point of view of those directly concerned and of the community at large, with all citizen input given equal consideration, if not equal weight.

### **Interacting With Citizen Boards And Commissions**

Citizen participation in finding answers to complex questions that face city councils today can be secured in a number of ways. The most formal and efficient method is through the use of committees, commissions and boards. Such groups are meant to make recommendations after sifting and analyzing data. Both committee members and city officials should keep in mind that, for the most part, citizen committees and boards are advisory in nature, and the council must make the ultimate decision.

The council decision may not always coincide with the board recommendation, for city officials must be concerned with the interrelationship of those decisions with decisions made in other areas. For example, changes recommended by a planning board may not have taken into account traffic problems that would be created by such a change. One solution is to send proposed legislation to every possible board. However, caution should be exercised, since this practice may complicate and slow down the decision-making process and perhaps increase the relevant costs.

**Appointments To Boards:** With respect to appointments to boards and commissions, the mayor and council should make every effort to secure the best appointees possible. They can improve this process by:

- 1) Avoiding the selection of citizens simply as a way of repaying someone who has done a favor.
- 2) Selecting persons who will have time and energy to devote to the responsibilities assigned to that board.
- 3) Looking for citizens who have the interest of the entire community as their concern, rather than someone who has a narrow interest or “an axe to grind.”
- 4) Choosing citizens on the basis of whether they have an open mind, are willing to listen and are not afraid to express themselves.
- 5) Avoiding persons who would have immediate conflicts of interest by being appointed to a particular board. This presents some problems because it tends to eliminate those who are most knowledgeable, i.e., realtors from the planning or zoning board.
- 6) Trying to secure a cross section of the community on each board in terms of occupation, geographic location, age, economic level and ethnic background.

### **Relating To City Employees**

A valuable investment of time by any newly elected official is becoming acquainted with city employees and their jobs. Public employees always are pleased when an elected official takes time to talk to them, to find out what they do, to praise them when they have done a particularly good job, and to thank them for the day-to-day tasks they perform.

City employees obviously have a great deal of information about city matters that would be most helpful in your decision-making function. In most instances, it would be best to “go through” a department head for such information, although this use of formal channels is not always necessary.

You should be aware that the city employee can be a powerful ally and supporter, or he can be alienated and create problems. A smile, a nod of the head, the use of a first name, a “thank you” or a compliment are usually all that are necessary to establish good working relations between the elected official and the city employee.

## **Meeting With Citizen Groups**

From time to time you will be asked to meet with a PTA, a subdivision association, service clubs, chamber of commerce and other citizen groups. In some instances you may be asked to simply listen; at other times to talk or discuss a problem. Although accepting such invitations takes time, it is better to say, “yes” than “no” if at all possible. One of the most pervasive criticisms of government today is that it is too far removed from the people. Any effort on the part of city officials to meet with citizen groups helps to reduce this complaint. Citizen interests will be more nearly satisfied if you find out as much about the group as possible before meeting with them.

If you are asked to give a speech, you should prepare thoroughly, be brief (10 to 15 minutes is plenty), and allow enough time for questions from members of the audience. You should be forthright and willing to meet issues head-on without dodging or flinching. If you do not know the answer to a question, you should say so; faking it may bring about embarrassing repercussions later. Again, promises to take action may be dangerous. If the rest of the council does not agree, if some legal obstacle prevents the promised action from being taken, if after further investigation it seems that the first set of facts was not accurate, you will find it impossible to follow through, in spite of the best intentions.

You should make every attempt to be warm and friendly, to be genuinely interested in the citizens’ concerns, and make sure to follow up on any requests for action, even if it is to inform the group that the requested action is impossible.

## **Communicating With The Press And Other Media**

The new city official who has had little or no experience with members of the press, whether newspaper, radio or television, suddenly will realize that he now lives in a different world. Anything he says in public, whether seriously or jokingly, can appear in the paper or on the radio the same day. An unguarded comment about a person or someone’s idea may be made public, much to his embarrassment. A poor choice of words, made on the spur of the moment, may be used to distort an individual’s position on a public issue. Newly elected officials must learn in a short time how to work with the members of the press in an effective and comfortable manner.

To optimize working relations with the press, the official should:

- 1) **Be honest.** Be honest in all dealings with members of the press. Covering up, lying and distorting statements and actions are calculated to establish poor relations with the press.

- 2) **Be consistent.** Every effort should be made to maintain the same position on public matters from one meeting to the next, unless the facts have changed or you have thought through that position and changed your opinion.
- 3) **Be cautious.** Even though you may trust a reporter, you must realize that a reporter has a story to get and that what a public official says or thinks or does is news. Remember, whatever you say, whether it is “on-the-record” or “off-the-record” is potential news.
- 4) **Be positive.** Be positive in your attitude toward members of the press. They should be viewed as persons who can aid the city. A good working relationship can be established if the council is open in its dealings with the press, inviting them to meetings – even work sessions – providing them with copies of reports, recommendations and other documents related to the business of the city, and initiating contact with reporters rather than waiting until the reporter comes to them.

## PERSONNEL ADMINISTRATION

Personnel administration is an extremely important, but at times neglected, aspect of municipal government in Missouri. The importance of sound personnel practices may be observed by examining any city budget. Most municipalities allocate more funds for salaries and wages than for any other item of municipal expenditure. Large municipal expenditures for personnel obviously require that personnel practices be as effective and efficient as possible. Also, personnel administration is an essential tool in the management of any city. By “management” we mean the application of direction and control to the operation of municipal government, regardless of the form of governmental structure or size of the city. Finally, there is a direct relationship between good personnel administration and employee morale and performance.

Municipal officials continuously make decisions concerning the duties of city employees, their salaries and fringe benefits, qualifications for city employment, lines of authority, etc. Even in the absence of formal written rules, personnel policies and practices exist, although they may be unwritten, inconsistent and subject to constant change. Municipal personnel practices and policies are more likely to be fair and equitable, to be accepted and understood by employees, if they are systematically developed, written and kept current.

One of the first and most important steps in establishing a sound program of personnel administration is to adopt a personnel ordinance that permits citizens, councilmen and employees to know quickly and accurately the formalized personnel rules and policies. In smaller municipalities, because the employees usually are well known to the members of the governing body, there is a tendency to treat each employee individually and to meet problems on a more personal basis. However, even in the smallest municipality, pressures for special treatment in such matters as pay increases, vacation leave and sick leave, often make it advisable to develop formalized written personnel policies. **In fact, no municipality is too small to formalize its personnel policies and practices.**

The personnel policies, practices, rules and regulations should assure the city employees that all appointments, promotions, compensation and other decisions will be based on the merit principle. The principle of merit means that all municipal personnel actions are based on the individual worth of particular employees, rather than on consideration of partisan, political or other advantage not directly related to actual job performance. It is essential that each municipal employee feel certain that the personnel policies and practices are fair, equitable and consistent and that each employee has an equal opportunity for advancement within the city service.

### Selection Procedures

The mayor and council often are involved in one of the most crucial factors in establishing an effective and efficient municipal administration – the recruitment and hiring of qualified municipal personnel. This process involves five distinct steps: advertising open positions, accepting applications, interviewing the applicants, examining the applicants and selecting the best available person to fill the position. The following discussion is designed to assist city officials in standardizing and, perhaps, improving their recruitment procedures.

Although not required by state statutes, city officials may want to use every available method to advertise open positions in order to secure as many applicants as possible. First, they should advertise the position in the local newspaper, and the ad should stress the benefits of municipal employment. Sometimes, the local newspaper will offer free space as a public service contribution. Second, for many positions, the current city employees might recruit applicants by spreading the availability of the position by word-of-mouth.

In larger municipalities, there are additional methods of advertising open positions. First, you might tape radio advertisements of ten to thirty seconds that the local stations will broadcast free of charge. Second, you might prepare colorful announcements listing job vacancies with qualifications, salary ranges, fringe benefits and other details of interest to prospective applicants. These announcements should be placed in public areas, such as the post office. Third, city officials might contact the Missouri State Employment Service – the state agency that maintains files on individuals seeking employment. Finally, a recruiting method that has proved successful in obtaining professional personnel is to advertise in the *Missouri Municipal Review*, the magazine published by the Missouri Municipal League, and in other appropriate trade journals.

When publicizing vacant positions, it is necessary to communicate essential information to the prospective applicant. This information should include the title and duties of the position, salary range, minimum qualifications, method of making application, closing date for application, and some of the advantages of city employment. When the advertisements produce a number of applicants, the difficult job of selection begins.

The first step in selecting applicants is to have each applicant complete an application form. The form should include all the important information about the individual, including his experience, education and references. The application form should be kept as short and as clear as possible in order to ensure that the applicant does not have difficulty in supplying the requested information. A sample application form may be obtained from the Missouri Municipal League.

The application should be given a preliminary check as soon as possible in order to identify any inaccurate or inadequate information. The preliminary check should include telephone or personal contacts with the applicant's references and with his previous employers. It is very important to contact the employee's previous immediate supervisor, but only if the applicant consents to this contact. If the applicant does not possess the minimum qualifications required for the position, he may be excluded from further consideration at this point. The individual should be notified immediately by mail that he is no longer being considered for the position. If the information on the application form indicates the individual might be qualified for the position and if the preliminary check indicates the information is accurate, the next step usually is to arrange a personal interview with the applicant.

Depending on the structure of the municipal government, the interview may be conducted by the mayor, city administrator, personnel officer, department head, supervisor, city clerk or other qualified individual. The interview simply is a conversation with a purpose – to determine whether the education, experience, interests and temperament of a person qualify him to fill a specific position. The interviewer should ask the appropriate questions in order to determine the

applicant's work experience, personality and general qualifications for the position for which he is applying. The interviewer might present the applicant with a hypothetical problem for decision and question him about the course of action he would take. The response should indicate whether the applicant is able to analyze a problem, evaluate alternative courses of action and arrive at a decision. These problem-solving exercises are particularly useful when the applicant is applying for a supervisory position.

In addition to evaluating the qualifications of the applicant, the interviewer should explain in detail the duties and responsibilities of the position. When the interview is completed, the interviewer should be able to judge the qualifications of the applicant, and the applicant should be able to judge the desirability of the position. The interviewer should record his impressions of the applicant, preferably on an interview impact rating form (a sample may be obtained from the Missouri Municipal League).

For some positions in municipal government, a formal examination is an important step in the selection of the most qualified personnel. Examinations may be obtained from several sources, including professional testing enterprises. Generally, city officials overlook an excellent potential source of examinations – the local high school. Most high schools have a business education department. Some of the same examinations given to business students may be used to test applicants for clerical positions. Sometimes, teachers will administer and score the examinations for a small fee.

For some positions, when a written examination is not feasible, an oral examination might be administered. Several qualified individuals should sit as members of an oral board to rate applicants on experience and training for a particular position. After the examinations have been completed, the applicants should be listed in the order of their scores, the highest score at the top of the list. According to the merit principle, applicants should be selected from the top down. For some positions, particularly in the public works area, a performance test might be more informative than a written test. Please remember that at no time should testing mechanisms be used as a means to exclude persons from any ethnic, religious or age group. (See Equal Employment Opportunity later in this chapter.)

The final selection should be based on the merit principle – the idea that municipal employees will perform more effectively and efficiently if they are selected on the basis of demonstrated merit and ability. It seldom is mandatory that the hiring individual employ the candidate who stands at the top of the list, but it is considered desirable that he be obligated to hire one of the top-rated individuals. By this procedure flexibility is obtained while the principle of merit is preserved.

City government can realize a further benefit through the implementation of these simple procedures. By careful selection of city employees, the city may, in the long run, reduce unnecessary unemployment costs by the elimination of improper claims.

Most municipalities provide that the new employee must complete a probationary period before final selection as a regular municipal employee. During the probationary period, the supervisor and department head should observe the employee's work and reject any employee whose performance does not meet required work standards. The probation period is explained

in greater detail in the *Personnel Manual for Missouri Municipalities*, which is published by the Missouri Municipal League.

### **Employee Handbook**

City officials can provide a valuable service to both present and future employees by preparing an employee handbook that explains in simple language pertinent facts about such topics as composition and organization of the city government, probationary period, pay plan, hours of work, overtime, payroll deductions, insurance and retirement plans, holidays, vacation and sick leave, leave without pay, workers' compensation or injury benefits, job training, political activity, discipline procedures and grievances. The handbook also should stress the courtesy, ethics and conduct expected of municipal employees. Distribution of the handbook will assure city officials that the employees have been informed of all the benefits and responsibilities of municipal employment. Even in the small municipality, where a single, typed sheet containing some of the above information may constitute the employee handbook, its availability is important.

### **Employee Records System**

The most elementary component of a personnel system is the employee records system, including a personnel history form for each employee. Without some systematic means of collecting and recording the great amount of information required in personnel transactions, personnel records become terribly confused with misleading and inaccurate data.

This is particularly crucial in that since 1976 state and city government employees are eligible for unemployment compensation. It is imperative that city officials maintain accurate and concise employment records of its employees. This is an excellent preventive measure to reduce the chances of payment of improper claims. The need may arise for city officials to substantiate their decision to discharge an employee; this cannot be done with inaccurate or nonexistent personnel records.

Also, cities were covered by the Fair Labor Standards Act in 1985. Among other provisions, the Act requires cities to give compensatory time off or paid time at a rate of one and one-half times the normal rate of pay for most nonexempt employees after 40 hours of work in a seven-day period. There are special provisions for police and fire personnel. In addition, the law requires that specific records be kept for each employee on hours worked per day, total hours worked per week, rate of pay, total overtime compensation, etc.

Although a personnel history file is necessary for each employee, the file should contain information on the employee's background, education, family and city employment experience. Each employee's file should contain his original application form, as well as his interview and examination results.

Also, the employee's file should contain a "roster" card for the recording of all important events bearing on the individual's employment with the city. The roster card should include the employee's date of first employment, department and the beginning salary. The roster card should include every subsequent change of status, whether salary increase, transfer, promotion

or separation. Finally, the roster card should have columns to record vacation leave, sick leave, etc.

Periodic evaluations of the employee's performance are an important part of the employee's file. These evaluations should be used as a guide in personnel decisions, such as raises and promotions. Although smaller municipalities prefer a relatively simple evaluation form, if the form is to be used to guide decisions on personnel transactions, it must cover all important elements of the job, and the supervisors must complete the form with care and deliberation. Generally, the evaluation form includes information concerning the employee's personal characteristics or traits, specific questions regarding on-the-job behavior, and standards of job performance. Whether or not a formal evaluation form is used, it is very important that supervisors keep regular records of commendable or deficient work of individual employees, rather than rely on memory. These evaluation forms should be discussed with the employee in an effort to improve performance. You may obtain a sample evaluation form from the Missouri Municipal League.

The employees' files generally are arranged in alphabetical order or by departmental unit. These personnel records should be the primary employment records for the city and duplicate departmental record keeping should be discontinued. For uniformity and efficiency of operations, the personnel files should be considered the central source for all information and transactions concerning employees. Depending on the structure of the municipal government, the personnel files may be maintained by the city administrator, city clerk, personnel officer or any other designated responsible individual.

### **Personnel Rules And Regulations**

Every municipality, regardless of size, should adopt written personnel rules and regulations in order to formalize the personnel policies and procedures. Each city employee should be informed of the rights and responsibilities of municipal employment. Also, each employee should feel certain that personnel decisions are based on the principle of merit, rather than political or other advantage. Employment in the city service is a career and should be regarded as such by individual city employees and municipal officials.

The written personnel rules and regulations should include provisions on appointment and promotion of city employees, the probation period, political activities, outside employment, employee conduct, overtime pay, holidays, vacations, sick leave, fringe benefits and retirement. Sample ordinance provisions on each of these subjects are included in the *Personnel Manual for Missouri Municipalities*.

### **Equal Employment Opportunity**

City officials should be aware of the fact that the Equal Employment Opportunity Act of 1972 brought municipal governments under the provisions of the 1964 Civil Rights Act having to do with equal employment opportunity. The Act prohibits cities from discriminating against any individual because of race, color, religion, sex or national origin. The law attempts to ensure nondiscrimination by encouraging the use of job related requirements for employment.

City officials can avoid some common areas of violations by following these “dos” and “don’ts”:

- **DON’T** rely predominantly on word-of-mouth referral.
- **DON’T** rely on qualifications that are not job related and tend to “screen-out” applicants rather than “screen-in” qualified minority group persons.
- **DON’T** continue restricting any positions on the basis of sex unless there is a bona fide occupational qualification involved.
- **DO** establish and maintain continuing relations with referral sources capable of furnishing large numbers of minority and female applicants such as schools –secondary, college, business or other; state employment and welfare offices; community action agencies; organizations directly serving minority groups and women; minority community leaders, etc.

### **Interviewing And Hiring**

When you interview applicants be certain that:

- Personnel interviewers understand and carry out your equal employment policies.
- All employment forms are nondiscriminatory.
- The Equal Employment Opportunity poster is displayed.
- Re-evaluate all your standards for employment. Qualifications should reflect what the applicant needs to get the job done. You may lose potentially good workers because you have artificially high standards.

For example:

- Eliminate requirements for a high school or higher diploma where none is required.
- Eliminate experience requirements where the job can be quickly learned, and reduce experience requirements that are excessive.
- Liberalize height and weight requirements to comply with EEOC guidelines.
- Do not refuse employment based on arrest records. An arrest is not a conviction, and a conviction may be redeemed by later conduct.
- Look at the whole person.

Review and modify your entire testing structure:

- Avoid general intelligence and aptitude tests; emphasize skills and performance tests.
- Use test scores only as one of many criteria that are evaluated prior to selection for hiring.

### **Promotion And Training**

- Apply the same principles of equal opportunity to current employees as you do to new ones.
- Adopt a Merit Promotion Plan and post all promotional opportunities.
- Conduct regular, comprehensive reviews of employee mobility. Pay particular attention to the mobility patterns of minority groups and females.
- Whenever additional training is needed, provide it. Encourage all employees to take special courses that will qualify them for specific promotional opportunities.

Further information on equal employment opportunity may be secured from the Missouri Municipal League publication entitled *Personnel Manual for Missouri Municipalities*.

### **Employee Termination**

When it is called to your attention that an employee's performance is not quite up to par, here are some simple suggestions to help prevent the unnecessary termination of an otherwise good employee.

- Review employee's record; pay careful attention to absences and tardiness, their existence and frequency.
- For many reasons some employees encounter difficulties in adjusting to a new working situation. Investigate all possibilities; don't cast them aside. Help mold these persons into effective workers. The result may be your gain.
- Talk to the employee and try to determine the specific problem and the cause.
- Promote an open door policy so all employees can air their problems.
- Establish a clear, publicized system of investigating complaints.
- Before firing an apparently ineffective employee, be certain that a thorough investigation has been conducted, and that you and his supervisors have made every possible effort to avoid his termination. If the employee was hired through a service agency, be sure the agency has been notified and has been given an opportunity to help the employee.

By following these or similar procedures, your government can improve its effectiveness in numerous ways. You can reduce your unemployment costs and eliminate possible suits on the basis of discrimination by implementing these preventive measures.

## **FINANCIAL ADMINISTRATION**

The citizens of every municipality are entitled to an accounting from the officials, elected or appointed, who are responsible for conducting their government's affairs. In simpler times, a periodic publishing or posting of a record of receipts and expenditures would pass for an accounting. Today, however, accountability is a more complex concept as evidenced by the many demands for information that impose themselves upon municipal governments' accounting systems. There are, for example:

- citizens, who demand to know why their taxes continue to increase and what they are getting in return for them;
- state government, which needs information to ascertain that revenues have been properly and wisely expended and that there has been compliance with state statutes;
- the federal government, which must assure itself that grants and shared revenues are being expended effectively and efficiently;
- other cities and regional bodies that need comparative financial statistics and information for planning and program evaluation;
- lenders and bond rating services, whose impressions of city administration, including fiscal administration, can make a significant difference in the cost of borrowed funds; and
- by no means last or least, city officials who need financial information for planning and controlling the city's affairs.

### **City Budgets**

Budgeting is one of the most important operations a city performs. Budgeting should not be thought of merely as a legal requirement that must be met, nor simply as a plan for raising and spending money. The budget is the city's means of describing in monetary terms the various services it performs during the fiscal year. The budget is the one document that adequately describes the city's plans in terms of revenues and expenditures for each year.

Chapter 67 of the Missouri Revised Statutes establishes laws concerning budgets for municipalities. This Chapter requires that each municipality must conform to the following rules:

1. Prepare an annual budget. The annual budget must present a complete financial plan for the next budget year. The statutes specifically state that each of the following must be included in the budget:
  - a) A budget message to describe the important features of the budget and to point out any major changes from the previous year.

- b) An estimate of revenues that are expected to be received during the next year from all sources, plus a comparative statement of the estimated revenues for the previous two budget years. These comparisons should be shown by year, fund and source.
  - c) An estimate of the expenditures that are proposed to be spent during the budget year, plus a comparative statement of actual or estimated expenditures for the previous two years. These comparisons should be shown by year, fund, activity and object.
  - d) The amount of money required to pay any interest, amortization or redemption charges the municipality will owe during the budget year.
  - e) A general summary of the total proposed budget.
2. Each municipality must appoint a budget officer. This is done by board action. Normally, the mayor, city clerk, an alderman or other city official is appointed budget officer. However, the statutes do not specifically state who may be the budget officer. It is the responsibility of the budget officer to prepare the budget after reviewing expenditure requests and revenue estimates. The budget officer submits the completed budget and supporting schedules and exhibits to the governing body for approval. In many cities, the city clerk, if not appointed budget officer, at least will assist the budget officer in the budgeting process.
  3. Expenditure estimates never can be larger than the amount anticipated in revenue plus any surplus from the previous year or less any deficit from the previous year.
  4. No expenditures of public monies can be made until the city has conformed to all the rules established in Chapter 67 of the Revised Missouri Statutes.

### **Chronological Steps In Budgeting Process**

This section is designed to present the basic steps of the budget process in chronological order. Local ordinances and other requirements may necessitate amendments and additions to these steps.

The following sections frequently refer to the terms “department” and “department head.” It is realized that not all cities have formal departmental structures or department heads. However, the budget officer still should attempt to secure the advice of those closely related to the various city functions. For instance, a city may not have an actual public works department or public works director, but the budget officer should talk with someone involved with the maintenance of streets and facilities to secure the needed budget information. In the case of the police department, the budget officer should talk with the chief or marshal for this information. The same is true for the other services the city performs. In this way, the budget officer gets the insight of those most closely associated with the various aspects of city government and can budget more effectively.

## **The Budget Calendar**

The budget calendar is a device set up by the budget officer for planning and scheduling purposes. It makes very clear when the various steps of the budget process should be completed. Dates are set for revenue estimates to be made, departmental requests to be sought, and all the other phases of budget preparation. The effect of the budget calendar is that it keeps important steps in the budget process from being overlooked or delayed to such an extent that they become less effective.

The suggested calendar illustrates the general principle involved. Modification of the time allocated for each step may vary slightly depending on local circumstances, and in some cases it might be advisable to indicate the person or agency who should carry out this step. However, this usually is not necessary except in larger municipalities. If there is any possibility of confusion as to who does what, it is best to clarify this on the calendar.

Missouri law does not set the fiscal year for municipalities, but leaves this to their own discretion. There is no one best time to begin the fiscal year; however, many smaller Missouri municipalities begin their fiscal year on May 1 or July 1.

### **SUGGESTED BUDGET TIMETABLE**

Mid-year	Collect data and make preliminary revenue estimates. Estimate expenditures for present year. Note expenditures and revenues for previous two years.
By 7th Month	Forms for documentation of work plans and for operating expenditure requests are distributed to supervisory personnel. Expenditure estimates from current year are included.
By 9th Month	Develop revenue estimates. Expenditure requests reviewed with supervisory personnel and compiled with all other requests by activity and object for each fund.
By 10th Month	Budget document assembled and submitted to Board.
By 12th Month	Board reviews budget, conducts public hearings if required and makes any changes in proposed expenditures. Budget adopted.
By Year End	New accounting records established.
Monthly/Quarterly	Status reports prepared on revenues and expenditures compared to budget. These reports are provided to the Board.

## **Revenue Estimating**

It is necessary to determine the revenue that will be coming into a municipality before decisions can be made as to “how much” and “for what” the money will be spent. Revenue estimating should be more than looking at last year’s revenues and accepting that as an estimate of revenues for the next fiscal year.

It is necessary first to look at the revenues for the last five to ten years. A simple graph can be drawn showing the revenue increase or decrease, and the average annual percentage increase or change can be computed. In doing this, one might find that revenues have increased about three to four percent a year. This gives some indication that the revenue increase in the coming fiscal year should be about three to four percent barring other influences.

These influences cannot be overlooked or taken for granted that they will be insignificant. The person who is responsible for estimating revenues must be aware of changes in population, family income, employment within the municipality and the areas surrounding it, rates of inflation or deflation, contemplated changes in methods of collecting locally produced revenues, and trends in assessment ratio levels. These and other factors have a large effect upon the city’s revenue.

If the past history of the municipality’s revenues is analyzed and linked with current observations as to the financial condition of the municipality, a useful revenue estimate can be derived. Caution must be used in determining the final revenue estimate, because a too conservative revenue estimate can hamper the progress of municipal programs, while a too liberal estimate can put the municipality into economic difficulties.

## **Expenditure Estimating**

When revenue estimates are obtained in as accurate a form as possible, expenditure estimates can be determined. The estimating of expenditures is a project in which the budget officer as well as department heads must participate.

Conferring with department heads is a very important aspect of this step. Department heads, in most cases, are more familiar with the day-to-day operation of the department. They should be aware of any obvious change in service and should have the greatest insight into the needs of the department in the coming year.

For this reason, it is necessary to rely on department heads for these estimates. Assistance should be provided to them by stating last year’s expenditures and an estimate of expenditures for the present year. Payroll information for that department should be supplied if possible.

In order to simplify the assembling and analysis of departmental requests, a standard form can be distributed to all departments with explicit instructions included. The design of the form is not as important as its clarity and usefulness. (A sample departmental request form can be found on page 71.)

Along with the estimate of expenditures for the coming year, a justification for either increases or decreases in expenditures should be required from the department head in writing. This justification should be submitted with the estimates.

## REVENUE ESTIMATING

<u>Year</u>	<u>Ann. Rev.</u>	<u>% Ann. Inc.</u>	<u>Avg. % Inc.</u>
1991	\$200,000		3.4%
1992	210,000	4.7	
1993	215,000	2.3	
1994	220,000	2.3	
1995	230,000	4.3	
1996	235,000	2.1	
1997	240,000	2.1	
1998	260,000	7.7	
1999	265,000	1.9	
2000	274,000 )		
	)		
2001	283,000 )		

### **Review Of Requests**

When the budget officer receives all the requests, he should carefully analyze them in light of expected revenues. In most cases, requests will be much greater than estimated revenue. Obviously, cuts will have to be made.

This is where teamwork is needed. Some items in the departmental requests will be needed more than others, and department heads should be allowed to have a definite voice in what they receive. This is necessary for two reasons: 1) they are close to the department and should know it best, and 2) it promotes harmony with the department heads. If they know why their requests were cut and had some role in deciding where they were cut, they can better understand the problems of budgeting.

The budget officer also may want to review the requests and the priorities with the city council. Much of this is a matter of local custom. Generally, it is best to obtain the opinion of as many of the people involved as possible. This, in most cases, eliminates last minute disputes over budget appropriations.

## **Budget Message**

The budget message is a report by the budget officer that explains the budget document to the governing body. The budget message usually is more than just an explanation of the budget document, however. If necessary, it can be used to effectively point out deficiencies in city programs and needs for additional revenues. The budget message also must indicate any major changes from previous years in revenues and expenditures and should fully explain why these changes are being made.

## **Assembling The Budget**

Assembling the budget is the final step in budget preparation. This step includes the totaling of departmental expenditures, summarizing the general fund and checking to ensure legal form. Necessary items that must be included are:

- a) Budget message;
- b) Comparative statement of actual or estimated revenues for preceding two years, itemized by year, fund and source;
- c) Comparative statement of actual or estimated expenditures for preceding two years, itemized by year, fund, activity and object;
- d) The amount required to pay interest, amortization and redemption charges on debts of the city; and
- e) A general budget summary.

These items must be clearly set out, and the assembling stage is a good place to assure this.

A neat, concise and accurate budget with the information required by law should be strived for at all times.

## **Board Action**

The statutes do not require cities to hold public hearings relative to budget adoption. It usually is advisable, however, to have public hearings prior to budget adoption so the citizens can have an opportunity to be heard on how their taxes are to be spent.

Similarly, the statutes do not specify the exact procedures the governing body must follow to adopt the annual budget. The statutes merely state that "... the governing body ... shall, before the beginning of the fiscal year, approve the budget and approve or adopt such order, motions, resolutions or ordinances as may be required to authorize the budget expenditures and produce the revenues estimated in the budget." (Section 67.030 RSMo)

The ordinance method of adopting the budget is excellent in that it gives the public an opportunity to ask questions and discuss the budget at each ordinance reading.

### **Financial Statements**

Section 105.145 RSMo requires the governing body of every political subdivision, including municipalities, to prepare and submit an annual report of financial transactions to the state auditor.

The state auditor is required to prepare the forms for the annual report and mail them to each city. However, failure of the state auditor to supply the forms does not excuse city officials from complying with the law.

If the financial report is not filed within the required time, members of the governing body may not receive any compensation or expense reimbursement until the state auditor has certified receipt of the report.

### **Publication Of Semiannual Statements**

State statutes require the governing body of most cities to make out and record a full and detailed account and statement of the receipts, expenditures and indebtedness of the city semiannually. Details of the city's separate funds must be given in the financial report. The semiannual financial statement must be published in some newspaper in the city.

In fourth class cities, if the semiannual financial statement is not published, the city treasurer must not pay out any money of the city on any warrant or order of the board of aldermen until the statement is published. If the treasurer violates the provisions of this law, he shall be guilty of a misdemeanor.

Although the semiannual financial statement must be "full and detailed," there have not been any definitive court cases or attorney general's opinions concerning the exact reporting requirements of the law.

### **Advantages Of The Independent Audit**

Although not required by law, there are many advantages to an annual, independent audit. An annual audit by a certified public accountant (CPA) will verify that:

- 1) The accounts are in balance;
- 2) All money received and expended is correctly reported;
- 3) All ordinances and policies set by the governing body are being complied with by the city staff; and
- 4) Funds for bond payments are correct to satisfy the bond holders.

Also, the independent auditor can provide assistance with work flow problems, better ways of reporting, improvements to the office environment and intergovernmental reporting.

The CPA also can be of help in discussing work loads and the number of people necessary to carry out the work and the city's readiness for accounting machines or mini-computers. They are knowledgeable about equipment that might aid in the performance of city operations. Many cities already use minicomputers and accounting machines.

Forms design is another important area because the biggest expense in some city departments is forms handling. Well designed forms cut the time it takes to perform a task.

The audit usually is divided into two parts. The first part is the reporting of balances by functions as to income and expense. This is a necessary document that should be reviewed by the governing body to see the "history" of your city's financial picture. This part is very useful in developing the budget, planning long-range projects, and costing the various services provided the public. A copy of the audit always should be available for public inspection during regular working hours.

The second part sometimes is called a "Management Message," which contains the auditor's comments regarding the overall operations. This message is very important. Because the auditor has many clients from business and government, he is qualified to propose changes that can greatly reduce costs and effect better reporting. The message thus provides the governing body with professional fiscal advice. The auditor, however, never orders changes, he merely recommends changes. The governing body has the final word. Should there be a conflict over general accounting practices between what you want and what the governing body requests, the governing body has the final word. Audits can cost a few hundred dollars or thousands of dollars, depending on the scope of the audit required. Although CPAs cannot advertise, they can give you a "bid" on the cost of the audit. We suggest a firm that works with other governmental agencies, preferably other municipalities.

## SAMPLE DEPARTMENTAL REQUEST FORM

### Instructions

Please complete this departmental request form and return it by       (month)      ,       (day)      ,       (year)      . Expenditures for your department for the last two years have been included. Estimate your department's expenditures for the various classifications as accurately as possible. Insert these itemized estimates in the last column of the form. It is necessary that increases or decreases in expenditure requests be accompanied by appropriate explanation and justification. This can be done on the back of the form or on a separate page.

DEPARTMENTAL REQUEST FORM  
(A form similar to this should be distributed to each department/division)

Department <u>Police</u>			Date
<u>Classification</u>	<u>Last Year's Expenditures</u>	<u>This Year's Budget</u>	<u>Expenditures Through First Six Months</u>
<u>Personal Services</u>			<u>Proposed Budget</u>
1 Chief	\$ 0,000	\$ 0,000	\$ 000
1 Sergeant	0,000	0,000	00
4 Patrolmen	00,000	00,000	0,000
1 Security	<u>0,000</u>	<u>0,000</u>	<u>000</u>
TOTAL	\$ 00,000	\$ 00,000	\$ 0,000
<u>Employee Benefits</u>			
Health Insurance	000	\$ 000	\$ 00
Retirement	0,000	0,000	0,000
Social Security	<u>0,000</u>	<u>0,000</u>	<u>0,000</u>
TOTAL	\$ 0,000	\$ 0,000	\$ 0,000
<u>Occupancy</u>			
Rent	\$ 0,000	\$ 0,000	\$ 0,000
Electricity	000	000	000
Gas	000	000	000
Maintenance	<u>000</u>	<u>000</u>	<u>000</u>
TOTAL	\$ 0,000	\$ 0,000	\$ 0,000
<u>Office Service</u>			
Postage	\$ 000	\$ 000	\$ 000
Telephone	000	000	000
Equipment Rentals	<u>000</u>	<u>000</u>	<u>000</u>
TOTAL	\$ 000	\$ 000	\$ 000
<u>Travel/Mobile Equipment</u>			
Travel Expenses	\$ 000	\$ 000	\$ 000
Light Equipment	000	000	000
Heavy Equipment	<u>000</u>	<u>000</u>	<u>000</u>
TOTAL	\$ 000	\$ 000	\$ 000
<u>Materials and Supplies</u>	\$ 0,000	\$ 0,000	\$ 0,000
TOTAL	\$ 0,000	\$ 0,000	\$ 0,000
<u>Special Expenses</u>			
Dues/Subscriptions	\$ 000	\$ 000	\$ 000
Advertising	000	000	000
Insurance	<u>000</u>	<u>000</u>	<u>000</u>
TOTAL	\$ 000	\$ 000	\$ 000
<u>Debt Service</u>			
Interest	\$ 0,000	\$ 0,000	\$ 0,000
Bond Sales Expenses	<u>0,000</u>	<u>0,000</u>	<u>0,000</u>
TOTAL	\$ 0,000	\$ 0,000	\$ 0,000
<u>Capital Outlay</u>			
Land	\$ 00,000	\$ 00,000	\$ 00,000
Buildings	00,000	00,000	00,000
Equipment	<u>00,000</u>	<u>00,000</u>	<u>00,000</u>
TOTAL	\$ 00,000	\$ 00,000	\$ 00,000
GRAND TOTAL	\$ 000,000	\$ 000,000	\$ 000,000

## **SAMPLE BUDGET FORMAT**

The following sample budget is not meant to be complete. It is included to illustrate how the various parts of the budget may be set up.\*

\*The following material in brackets is informational and explanatory and not part of the sample format.

Honorable Mayor and City Council  
Your Town  
Missouri

Gentlemen:

Pursuant to the requirements of Section 67.020 of the Revised Statutes of Missouri, the 2001 budget is hereby submitted. This budget has been prepared in conjunction with the department heads who have attempted to anticipate the needs of their departments realistically in relation both to available money and departmental problems.

For the sake of clarity in this presentation, a summary page is provided in addition to detailed expenditures. Reference to the summary pages will reveal major highlights of each division of the budget. In addition, various plates are included to graphically present budget information.

In every respect, the 2001 budget meets the requirements that expenditures do not exceed revenues. In addition, all bond funds are anticipated to have more than adequate supporting revenues.

The anticipated revenues derived from various sources to finance the General Fund shows a net increase of \$20,839. The total anticipated revenue in the General Fund is \$353,630. General Fund expenditures, including \$9,900 budgeted as a Contingent Account, balance with anticipated revenues.

The revenues anticipated for the Street Department in both the maintenance and capital improvements sections total \$127,400. This is a net decrease of \$4,039. The reason for this decrease may be found in the flood relief refund item carried in the 2000 budget, which constituted federal participation in flood relief.

The 2001 budget represents a total yearly program of \$584,467 in the General Fund, Street Fund, Cemetery Fund, Parking System and various bond retirement funds.

The 2001 budget is submitted with the belief that it represents a worthy effort to obtain a balanced, forward looking municipal program for the year. It represents in virtually every section a planned effort to improve the level or the quality of service now provided Your Town. The budget expresses on paper and in dollars the never ending struggle to provide Your Town citizens the most service possible for each of their tax dollars.

Respectfully submitted,

Budget Officer

CITY OF YOUR TOWN

Budget Summary  
Revenues – All Funds  
20xx-xx Budget

	<u>Actual</u> <u>20xx-xx</u>	<u>Estimated</u> <u>20xx-xx</u>	<u>Budget</u> <u>20xx-xx</u>
<b>General Fund</b>			
Property Taxes	\$000,000	\$000,000	\$000,000
Other Tax Receipts	00,000	00,000	00,000
Permits, Fees, Misc.			
Licenses	0,000	0,000	0,000
Miscellaneous Income	<u>00,000</u>	<u>00,000</u>	<u>00,000</u>
<b>TOTAL GENERAL FUND</b>	<b>\$000,000</b>	<b>\$000,000</b>	<b>\$000,000</b>
<b>Water Operating Fund</b>			
Water Sales to Customers	\$000,000	\$000,000	\$000,000
Other Operating Revenue	00,000	00,000	00,000
Other Revenue	<u>0,000</u>	<u>0,000</u>	<u>0,000</u>
<b>TOTAL WATER OPERATING FUND</b>	<b>\$000,000</b>	<b>\$000,000</b>	<b>\$000,000</b>
<b>General Debt Retirement</b>			
Property Tax	\$ 00,000	\$ 00,000	\$ 0,000
Other Tax Receipts	<u>0,000</u>	<u>0,000</u>	<u>000</u>
<b>TOTAL GENERAL DEBT RETIREMENT</b>	<b>\$ 00,000</b>	<b>\$ 00,000</b>	<b>\$ 0,000</b>
<b>Library Fund</b>			
Property Tax	\$ 00,000	\$ 00,000	\$ 00,000
Other Tax Receipts	000	000	000
Fees & Misc. Income	<u>000</u>	<u>000</u>	<u>000</u>
<b>TOTAL LIBRARY FUND</b>	<b>\$ 00,000</b>	<b>\$ 00,000</b>	<b>\$ 00,000</b>
<b>TOTAL REVENUES</b>	<b>\$000,000</b>	<b>\$000,000</b>	<b>\$000,000</b>

City of Your Town

General Fund  
Estimated Resources and Disbursements

(Prepare similar schedule for each fund)

Balance July 1, 20xx*	\$ 00,000
BUDGETED REVENUE	<u>000,000</u>
Funds Available	\$000,000
BUDGETED EXPENDITURES	\$000,000
BALANCE JUNE 30, 20xx**	\$ 00,000

\*Beginning date of your city's fiscal year

\*\*Ending date of your city's fiscal year

CITY OF ANYTOWN, MISSOURI  
Estimated Source of Funds

(Prepare similar schedule for each fund)

General Fund

	Actual <u>20xx-xx</u>	Estimated <u>20xx-xx</u>	Budget <u>20xx-xx</u>
<u>General Property Taxes</u>			
Real Property Tax	\$000,000	\$000,000	\$000,000
Personal Property Tax	00,000	00,000	00,000
Delinquent Real Tax	0,000	0,000	0,000
Delinquent Personal Tax	<u>000</u>	<u>000</u>	<u>000</u>
TOTAL	\$000,000	\$000,000	\$000,000
<u>Other Tax Receipts</u>			
Merchants & Manufacturers	\$ 0,000	\$ 0,000	\$ 0,000
Corporations & Intangible	00,000	00,000	00,000
Interest & Penalties	0,000	0,000	0,000
Telephone Franchise	00,000	00,000	00,000
Electric Franchise	<u>00,000</u>	<u>00,000</u>	<u>00,000</u>
TOTAL	\$ 00,000	\$ 00,000	\$ 00,000
<u>Licenses &amp; Permits</u>			
Vehicle Licenses	\$ 00,000	\$ 00,000	\$ 00,000
Liquor Licenses	<u>0,000</u>	<u>0,000</u>	<u>0,000</u>
TOTAL	\$ 00,000	\$ 00,000	\$ 00,000
<u>Intergovernmental Revenue</u>			
Federal Grants	\$000,000	\$000,000	\$000,000
Federal Shared Revenues	00,000	00,000	00,000
State Grants	00,000	00,000	00,000
State Shared Revenues	<u>00,000</u>	<u>00,000</u>	<u>00,000</u>
TOTAL	\$000,000	\$000,000	\$000,000
<u>Charges for Services</u>			
Sanitation	\$ 00,000	\$ 00,000	\$ 00,000
Culture - Recreation	<u>0,000</u>	<u>0,000</u>	<u>0,000</u>
TOTAL	\$ 00,000	\$ 00,000	\$ 00,000
<u>Fines and Forfeits</u>			
TOTAL	\$ 00,000	\$ 00,000	\$ 00,000
<u>Miscellaneous Income</u>			
Interest Income	\$000,000	\$000,000	\$000,000
Other	<u>0,000</u>	<u>0,000</u>	<u>0,000</u>
TOTAL	\$000,000	\$000,000	\$000,000
GRAND TOTAL	\$000,000	\$000,000	\$000,000

CITY OF YOUR TOWN, MISSOURI

Budget Summary

Expenditures – All Funds

20xx-xx Budget

	<u>Actual</u> <u>20xx-xx</u>	<u>Estimated</u> <u>20xx-xx</u>	<u>Budget</u> <u>20xx-xx</u>
<u>General Fund</u>			
Legislative	\$ 0,000	\$ 0,000	\$ 0,000
Judicial	00,000	00,000	00,000
Executive	00,000	00,000	00,000
Administration	00,000	00,000	00,000
Police	00,000	00,000	00,000
Fire	<u>00,000</u>	<u>00,000</u>	<u>00,000</u>
TOTAL	\$000,000	\$000,000	\$000,000
<u>Water Operating Fund</u>			
Water Distribution	\$ 00,000	\$ 00,000	\$ 00,000
Water Administration	00,000	00,000	00,000
Debt Service	00,000	00,000	00,000
Capital Investment	<u>00,000</u>	<u>00,000</u>	<u>00,000</u>
TOTAL	\$000,000	\$000,000	\$000,000
<u>Library Fund</u>			
Administration	\$ 0,000	\$ 0,000	\$ 0,000
Circulation	\$ 0,000	\$ 0,000	\$ 0,000
Periodicals	<u>0,000</u>	<u>0,000</u>	<u>0,000</u>
TOTAL	\$ 00,000	\$ 00,000	\$ 00,000
<u>Debt Service</u>			
Principal Payments	\$ 00,000	\$ 00,000	\$ 00,000
Interest Payments	00,000	00,000	00,000
Fiscal Agent Charges	<u>00,000</u>	<u>00,000</u>	<u>00,000</u>
TOTAL	\$000,000	\$000,000	\$000,000
TOTAL EXPENDITURES	\$000,000	\$000,000	\$000,000

CITY OF YOUR TOWN, MISSOURI

General Fund

(Prepare similar schedule for each fund)

Proposed Expenditures

	<u>Actual</u> <u>20xx-xx</u>	<u>Estimated</u> <u>20xx-xx</u>	<u>Budget</u> <u>20xx-xx</u>
<u>General Fund</u>			
Legislative	\$ 0,000	\$ 0,000	\$ 0,000
Judicial	0,000	0,000	0,000
Executive	00,000	00,000	00,000
Administration	00,000	00,000	00,000
Police	00,000	00,000	00,000
Fire	<u>00,000</u>	<u>00,000</u>	<u>00,000</u>
 TOTAL	 \$ 000,000	 \$ 000,000	 \$ 000,000

**EXPENDITURE DETAIL**

(An expenditure detail sheet should be made for each separate activity that is budgeted.)

**ACTIVITY FUND**

<u>Function &amp; Activity</u>	<u>Actual</u> 20xx-xx	<u>Estimated</u> 20xx-xx	<u>Budget</u> 20xx-xx
<u>Personal Services</u>			
Full-time Salaried	\$ 00,000	\$ 00,000	\$ 00,000
Full-time Hourly	0,000	0,000	00
Part-time Salaried	0,000	0,000	0,000
Part-time Hourly	0,000	0,000	0,000
Professional & Consulting Fees	<u>0,000</u>	<u>0,000</u>	<u>0,000</u>
TOTAL	\$ 00,000	\$ 00,000	\$ 00,000
<u>Employee Benefits</u>			
Health Insurance	\$ 00,000	\$ 00,000	\$ 00,000
Retirement	00,000	00,000	00,000
Social Security	<u>00,000</u>	<u>00,000</u>	<u>00,000</u>
TOTAL	\$ 00,000	\$ 00,000	\$ 00,000
<u>Occupancy</u>			
Rent	\$ 0,000	\$ 0,000	\$ 0,000
Electricity	0,000	0,000	0,000
Gas	0,000	0,000	0,000
Maintenance	<u>0,000</u>	<u>0,000</u>	<u>0,000</u>
TOTAL	\$ 0,000	\$ 0,000	\$ 0,000
<u>Office Services</u>			
Postage	\$ 000	\$ 000	\$ 000
Telephone	000	000	000
Equipment Rentals	<u>0,000</u>	<u>0,000</u>	<u>0,000</u>
TOTAL	\$ 0,000	\$ 0,000	\$ 0,000
<u>Travel/Mobile Equipment</u>			
Travel Expenses	\$ 0,000	\$ 0,000	\$ 00,000
Light Equipment	0,000	0,000	0,000
Heavy Equipment	<u>0,000</u>	<u>0,000</u>	<u>0,000</u>
TOTAL	\$ 0,000	\$ 0,000	\$ 00,000
<u>Materials &amp; Supplies</u>			
TOTAL	\$ 0,000	\$ 0,000	\$ 0,000
<u>Special Expenses</u>			
Dues/Subscriptions	\$ 000	\$ 000	\$ 000
Advertising	000	000	000
Insurance	<u>000</u>	<u>000</u>	<u>000</u>
TOTAL	\$ 000	\$ 000	\$ 000
<u>Debt Service</u>			
Interest	\$ 0,000	\$ 0,000	\$ 0,000
Bond Interest Expenses	<u>0,000</u>	<u>0,000</u>	<u>0,000</u>
TOTAL	\$ 0,000	\$ 0,000	\$ 0,000
<u>Capital Outlay</u>			
Land	\$ 00,000	\$ 00,000	\$ 00,000
Buildings	00,000	00,000	00,000
Equipment	<u>00,000</u>	<u>00,000</u>	<u>00,000</u>
TOTAL	\$ 00,000	\$ 00,000	\$ 00,000
GRAND TOTAL	\$ 000,000	\$ 000,000	\$ 000,000

(A personnel schedule should accompany each expenditure detail sheet for each activity.)

PERSONNEL SCHEDULE

ACTIVITY		FUND	
		Police	General
Number	Position Title	Current Year	Proposed Budget
1	Chief	\$ 0,000	\$ 0,000
1	Sergeant	0,000	0,000
4	Patrolmen	00,000	00,000
1	Security	<u>0,000</u>	<u>0,000</u>
	TOTAL	\$ 00,000	\$ 00,000

## CONFLICT OF INTEREST

What is conflict of interest? Generally speaking, when you have a financial interest in a measure or decision or question before you in your official capacity, there is or may be a “conflict” in exercising a true and independent decision on that issue. Conflict of interest also has been described as bribery, corruption, misuse or misapplication of funds or conversion of funds. **City officials should be aware that the appearance of evil can be as harmful as evil itself.** It is both the evil of an individual occupying a public position using the trust imposed in him and the position he occupies to further his own personal gain and the appearance of such evil that the law seeks to eradicate.

### Early Conflict Of Interest Statutes

In 1815, the third territorial assembly in Missouri adopted the common law of England, including the blanket prohibition against “public officials contracting with themselves.” Basically, the assembly felt it was against public policy. Seventy-five years later, the Missouri General Assembly codified this common law prohibition against public officers being interested in contracts (Section 106.300 RSMo). In later years, the General Assembly adopted similar prohibitions applicable to specific classes of cities.

In 1978, the General Assembly adopted a comprehensive conflict of interest statute (Chapter 105 RSMo) that allowed public officials, under very limited circumstances, to do business with the political subdivision. However, the General Assembly, in an oversight, failed to repeal the existing, more stringent statutes (Sections 106.300, 77.470, 78.410 and 78.640). During the 1985 session of the General Assembly, the legislature repealed the conflicting statutes.

### Provisions Of The Law

The law in Chapter 105 provides that no elected official, appointed official or administrative employee may:

1. Perform any service for the political subdivision in which he is an officer or employee, or over which he has supervisory power for receipt or payment of any compensation, other than of the compensation provided for the performance of his official duties, in excess of \$500 per transaction or \$5,000 per annum, except on transactions made pursuant to an award on a contract let or sale made after public notice and competitive bidding provided that the bid or offer is the lowest received;
2. Sell, rent or lease any property to the political subdivision in which he is an officer or employee or over which he has supervisory power and received consideration therefor in excess of \$500 per transaction or \$5,000 per annum unless the transaction is made pursuant to an award on a contract let or sale made after public notice and in the case of property other than real property, competitive bidding provided that the bid or offer accepted is the lowest received;
3. Participate in any matter, directly or indirectly, in which he attempts to influence any decision of the political subdivision in which he is an officer or employee, or over which he

has supervisory power when he knows the result of such decision may be the acceptance of the performance of a service or the sale, rental or lease of any property to that agency for consideration in excess of \$500 value per transaction or \$5,000 per annum to him, to his spouse, to a dependent child in his custody or to any business with which he is associated unless the transaction is made pursuant to an award on a contract let or sale made after public notice and in the case of property other than real property, competitive bidding provided that the bid or offer accepted is the lowest received;

4. Perform any services during the time of his office or employment for any consideration from any person, firm or corporation, other than the compensation provided for the performance of his official duties, by which service he attempts to influence a decision of the political subdivision in which he is an officer or employee or over which he has supervisory power;

5. Perform any service for consideration, during one year after termination of his office or employment, by which performance he attempts to influence a decision of the political subdivision in which he was an officer or employee or over which he had supervisory power, except that this provision shall not be construed to prohibit any person from performing such service and receiving compensation therefor, in any adversary proceeding or in the preparation or filing of any public document;

6. Perform any service for any consideration for any person, firm or corporation after termination of his office or employment in relation to any case, decision, proceeding or application with respect to which he was directly concerned or in which he personally participated during the period of his service or employment.

Also, the law provides that no member of the municipal governing body may:

1. Perform any service for the political subdivision or any agency of the political subdivision for any consideration other than the compensation provided for the performance of his official duties;

2. Sell, rent or lease any property to the political subdivision or any agency of the political subdivision for consideration in excess of \$500 per transaction or \$5,000 per annum unless the transaction is made pursuant to an award on a contract let or a sale made after public notice and in the case of property other than real property, competitive bidding provided that the bid or offer accepted is the lowest received;

3. Attempt for any compensation other than the compensation provided for the performance of his official duties, to influence the decision of any agency of the political subdivision on any matter.

Finally, the law provides that no sole proprietorship, partnership, joint venture or corporation in which any member of any legislative body of any political subdivision is the sole proprietor, partner, coparticipant or owner of in excess of ten percent of the outstanding shares of any class of stock, shall:

1. Perform any service for the political subdivision or any agency of the political subdivision for any consideration in excess of \$500 per transaction or \$5,000 per annum unless the transaction is made pursuant to an award on a contract let after public notice and competitive bidding, provided that the bid or offer is the lowest received;

2. Sell, rent or lease any property to the political subdivision or any agency of the political subdivision where the consideration is in excess of \$500 per transaction or \$5,000 per annum unless the transaction is made pursuant to an award on a contract let or a sale made after public notice and in the case of property other than real property, competitive bidding provided that the bid or offer accepted is the lowest received.

### **Penalties**

The statute provides that all complaints against officials or employees of a political subdivision concerning violations of the conflict of interest provisions must be made in writing to the county prosecuting attorney. The complaint must name the person allegedly violating the law, the nature and date of the violation, and must be signed by the complainant with an oath attesting that he believes, to the best of his knowledge, the truthfulness of the complaint.

Any person found guilty of purposefully violating any of the provisions of the law would be punished as follows: for the first offense, such person is guilty of a Class B misdemeanor; for the second and subsequent offenses, such person is guilty of a Class D felony.

### **Other Considerations**

In addition to the conflict of interest provisions in Chapter 105, some municipal officials are covered by local charter provisions and ordinances pertaining to conflict of interest. Also, municipal officials always should be aware that the appearance of an impropriety may be as embarrassing and politically damaging as an actual violation of the conflict of interest law. Although some municipal officials now legally may do business with the city, municipal officials are encouraged to carefully analyze the probable public perception of such activities.

### **Incompatibility Of Office (Dual Office Holding)**

Many Missouri municipalities, especially smaller ones, have combined offices in order to be more efficient and effective. Usually, someone will pose the question, "Is it legal to combine these offices under one officeholder?"

Under common law, an individual may hold more than one office only if the offices are compatible. The test for incompatibility of offices has four standards:

1. One office is subordinate to the other,
2. One office has supervisory powers over the other,

3. One office audits the other's accounts, or
4. One office has power of appointment or removal over the other.

Although many municipalities have combined offices for efficiency and economy and have found the arrangement satisfactory from a practical point of view, this practice might be criticized under the doctrine of incompatibility of office. In particular, the common practice of combining the offices of clerk, collector and treasurer would seem to be a technical violation of the doctrine of incompatibility of office.

## ENDNOTES

- (1) Morton Grodzins, "The Federal System," *The American Assembly, Goals for Americans* (Englewood Cliffs, N.J.: Prentice-Hall, Inc. 1960), p. 265.
- (2) From 1821 to 1875, the Missouri General Assembly passed special legislative charters for specific cities, until the 1875 Constitution prohibited further granting and amending of special legislative charters. However, six Missouri municipalities still are operating under special legislative charters granted before 1875. They are Carrollton, Chillicothe, LaGrange, Liberty, Miami and Pleasant Hill. If the voters of these municipalities ever decide to relinquish their special charters, they will be governed by the appropriate sections of the statutes relevant to their population classification.
- (3) The city is divided into at least four wards with either one or two councilmen elected from each ward.
- (4) The city is divided into at least two wards and two aldermen are elected from each ward.
- (5) The board of aldermen may provide by ordinance, after approval by the voters, for the appointment of a collector and for the appointment of a chief of police who shall perform the duties of the marshal as required by law.
- (6) The number is determined by a vote of the residents.
- (7) Section 80.090 RSMo.

## **PROFESSIONAL ORGANIZATIONS AND SOURCES OF TECHNICAL ASSISTANCE**

The following organizations are of invaluable assistance to newly elected municipal officials.

Missouri Municipal League  
1727 Southridge Drive  
Jefferson City, Missouri 65109  
573-635-9134

National League of Cities  
1301 Pennsylvania, Northwest  
Washington, D.C. 20004  
202-626-3000

International City Management Association  
777 North Capitol Street, NE, Suite 500  
Washington, D.C. 20002  
202-289-4262

International Municipal Lawyers Association  
1000 Connecticut Avenue, NW, Room 902  
Washington, D.C. 20036  
202-466-5424

Regional Planning Commissions