Minnesota Mayors Handbook

April 2013

MMA Minnesota Mayors Association

Produced by the League of Minnesota Cities for the Minnesota Mayors Association

MINNESOTA MAYORS HANDBOOK

This *Minnesota Mayors Handbook* is a product of the Minnesota Mayors Association. Dues support this and other valuable interaction among Minnesota mayors to help them provide excellence in city governance.

The *Minnesota Mayors Handbook* is a summary resource for practical and legal issues concerning Minnesota city mayors. Appendices are suggested approaches but may be tailored to individual city needs. The text of the handbook contains general information and is not intended to be a substitute for legal advice. For legal advice the city should consult its attorney.

The purposes of the Minnesota Mayors Association are to:

- Provide opportunities for the mayors to meet as a separate group for:
    - Securing a closer official and personal relationship among the mayors of the state of Minnesota.
    - Discussing municipal problems affecting all persons holding the office of mayor.
    - Discussing those problems, responsibilities, and experiences unique to mayors as the elected heads of the state's municipal governments.
    - Securing unity of action in matters pertaining to the mayors and the state's cities.
    - Using the unity of action generated through the association in lobbying the interests of Minnesota cities before the Minnesota Legislature and the United State Congress.
- Assist in the furtherance of the objectives of the League of Minnesota Cities.

If you are not a member of the Minnesota Mayors Association, we invite you to be part of the action by filling out the application/invoice on the following page and joining your fellow mayors in the Minnesota Mayors Association.

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Chapter 1: Introduction

It's easy to understand why a person would be excited about becoming a newly elected or appointed mayor. It's a terrific hallmark in one's life. Serving a city says a lot about a person's sense of public responsibility! With conscientious leadership, the mayor is in a great position to help guide a city forward in policy and development.

But being a mayor isn't easy, and it's only natural that a new mayor would on occasion feel intimidated. The office of mayor requires commitment to service and a willingness to take on sometimes significant challenges for the benefit of the city. Even if the mayor and council do everything right, they may receive little gratitude, all the while being overworked and underpaid. And when one realizes that he or she has become the chair of a board for a corporation with assets of significant value, it's natural to feel daunted by the responsibilities as well.

Enter the *Minnesota Mayors Handbook*.

I. Purpose

Being a mayor requires skills and knowledge not endowed by winning an election. While it is true that there is a lot to know, it's also true that there isn't just one way to be a successful mayor. No single source of information is enough to tell a mayor what to do and how to do it well, but you are encouraged to use the *Minnesota Mayors Handbook* as a starting point.

This handbook starts with an overview of some of the more important laws that every Minnesota mayor needs to be aware of as well as some general areas of law that require careful consideration. Next, since the mayor is the presiding officer at meetings, the handbook discusses meeting and hearing management skills. The handbook then focuses on general leadership skills. Lastly, appendices include sample council bylaws and rules of order for meetings and hearings.

Again, this is merely a starting point for information. When it comes to municipal affairs, there are many places to find answers. One purpose of this handbook is to help a mayor know when to ask questions.

II. Scope and applicability

Since this handbook is not intended to be an exhaustive resource, finding additional places for information is a must. This handbook contains citations in the margins to Minnesota state law and other resources to help mayors find more information on a given topic. In addition to the city's administrative staff and attorney, mayors will find state agencies often have answers to their questions. Lastly, always remember when a problem comes along, it's likely someone somewhere in the state has run into the same sorts of issues. Don't hesitate to consult fellow mayors of the Minnesota Mayors Association or the staff of the League of Minnesota Cities. They are always eager to help.

The League of Minnesota Cities is the secretariat of the Minnesota Mayors Association. Both can be reached at (651) 281-1200 or (800) 925-1122.

This handbook is, of course, for mayors of Minnesota cities. As such, it's written to generally describe the powers, authority, and responsibilities of mayors in most Minnesota cities. However, the state constitution allows for home rule charter cities, which can uniquely define mayoral roles and authority. On top of this, charter cities may have any administrative form of government "not inconsistent with [either] Constitution or statute." Given the variables this creates, mayors of charter cities should review their city's charter to see if their authority, powers, or responsibilities deviate from what is presented in this handbook.

Minn. Const. Art XII, § 4.

Minn. Stat. § 410.16.

Chapter 2: Legal requirements

This chapter is intended to provide an overview of legal powers and responsibilities of a mayor as well as some key areas of municipal law for mayors to know. There are some powers that all mayors possess by law. But many aspects of the office are affected by whether the city is a statutory city or a charter city. Additionally, a city's administrative structure will determine the extent of authority the mayor and council have over day-to-day affairs.

I. Statutory or home rule charter

The legal powers a mayor possesses mostly depend upon whether a city is governed by state statute alone, or by a home rule charter as well as state statute. The central difference between home rule charter cities and statutory cities in Minnesota is the enabling documents under which they operate:

- Statutory cities derive their powers from Minnesota Statutes, primarily from Chapter 412.
- Home rule charter cities obtain their powers from both statute and a home rule charter.

The mayor of a charter city could have more limited or more expansive powers than those of a mayor of a statutory city, depending upon what the charter says.

II. Forms of city organization

Cities in Minnesota generally use one of three administrative formats in their internal organization: weak mayor-council, strong mayor-council, and council-manager. There's overlap as well; almost all cities with a council-manager form of organization simultaneously follow a weak mayor-council form.

A. Weak mayor-council

Under the weak mayor-council plan, administrative as well as legislative authority is the ultimate responsibility of the council as a whole. The only exception would be if under authority of statute or home rule charter, a city has an independent board, such as a utilities commission, to handle one or more specific functions. The weak mayor-council plan is by far the most common plan in Minnesota.

The mayor's powers in the weak mayor-council system are no greater than those of other members of the council, except that the mayor is the presiding officer at council meetings and has a few other legal and ceremonial responsibilities listed below. The weak mayor has no extraordinary power to individually make administrative decisions for the city.

B. Strong mayor-council

The strong mayor-council plan is rare in Minnesota and can only appear in a home rule charter city. Under the strong mayor-council plan, the mayor is responsible for the operation of all administrative agencies and departments within the city. Typically, a strong mayor has the following powers.

- Can appoint and remove department heads and other subordinate staff, subject to civil service provisions where applicable.
- Is not a councilmember, but can veto council legislation subject to the right of the council to override the veto by an extraordinary majority.
- Prepares and administers a budget that the council approves.

These and other features can vary under city charter provisions.

C. Council-manager

Minn. Stat. § 412.541, subd. 2.
Minn. Stat. § 412.611.

Some home rule charter cities and statutory cities have a council-manager form of government. Under this form, the council has policy-making and legislative authority, but administration of the government is the responsibility of the council-appointed city manager. The manager is directly responsible to the council. The manager appoints department heads, usually without council approval.

In this form, neither the mayor, nor any other individual member of council, nor council as a whole typically has any decision-making authority in day-to-day administration of the city. Again, a home rule charter can vary this.

III. Legal powers and responsibilities of the mayor

The powers and responsibilities of a mayor may vary depending upon whether the city is statutory or governed by a home rule charter. Below are the basic powers of a mayor in a statutory city. A city charter may add to or limit this list.

Ceremonial head of the city. As the head of the city, the mayor often has certain responsibilities not found in statute, but based on custom or tradition. For instance, the mayor may represent the city before other governmental bodies such as the Legislature. The public and media also usually regard the mayor as the official spokesperson for the city and its policies.

Minn. Stat. § 412.191, subd. 2.

See Chapter 3.

Presiding officer at council meetings. In most cities, the mayor's greatest authority is that of presiding officer at council meetings. Though not a legal requirement, the presiding officer clearly has a responsibility to be impartial and objective in conducting the meeting. To maintain this objectivity, many mayors choose to minimize making or seconding motions and to allow other members of the council to speak before the mayor expresses his or her opinion.

Minn. Stat. § 412.191, subd. 2.

Calling meetings. Mayors, as well as two members of a five-member council or three members of a seven-member council, can call special meetings.

Minn. Stat. § 412.191, subd. 4.
Minn. Stat. § 412.201.
A.G. Op. 61-J (June 2, 1966).

Executing official documents. The mayor of a statutory city must sign ordinances, contracts authorized by the council, and written orders for payment of claims that have been audited and allowed by the council. These are ministerial duties, and the mayor may not refuse to sign if the purpose, approval, and form are legally correct and complete.

Power to make some appointments. While the power to appoint usually resides in council as a whole, the mayor has authority to make the following appointments, subject to council approval:

Minn. Stat. § 412.501

- Park board members (for a non-advisory park board).

Minn. Stat. § 134.09, subd. 1.
Minn. Stat. § 134.195, subd. 2.

- Public library board members.

Minn. Stat. § 412.221, subd. 16.

- Hospital board members.

Minn. Stat. § 44.04, subd. 1.
Minn. Stat. § 419.02, subd. 1.

- Some police civil service commission members.

Minn. Stat. § 469.003, subd. 6.

- Housing and redevelopment authority members.

Minn. Stat. § 469.095, subd. 2.

- Economic development authority members.

The mayor has authority to make the following appointments without council approval:

Minn. Stat. § 450.20.

- City art commission members (First Class cities).

Minn. Stat. § 12.25, subd. 1.

- Director of the local organization for emergency management.

Minn. Stat. § 412.02, subd. 2a.

- Filling a vacancy on council if the council vote to fill the vacancy is tied.

Minn. Stat. § 204C.07, subds. 3, 4. Minn. Stat. § 204C.31, subd. 1.

Election duties. Mayors of all cities have election responsibilities. At elections where residents will vote on a question, the mayor, upon receiving a written petition signed by at least 25 eligible voters, must appoint one voter for each precinct to act as a challenger of voters in the polling place. Also, the mayor of the most populous municipality in a given county (or the mayor's designee) serves as a member of that county's canvassing board.

Minn. Stat. § 12.29, subd. 1.
Minn. Stat. § 12.29, subds. 2, 3.

Declaring local emergencies. Only the mayor can declare a local emergency. A local emergency cannot last for more than three days except with the consent of the city council. A local emergency must receive prompt and general publicity.

The next two powers, while still found in statute, are largely regarded as vestiges of a bygone era.

Minn. Stat. § 18.80, subds. 2, 3.
Minn. Stat. § 18.81, subd. 2.

Weed inspector. The mayor is the city weed inspector. The city may appoint one or more assistant weed inspectors to fulfill the mayor's statutory weed inspector obligations.

Minn. Stat. § 299F.04.

Fire investigator. In cities without fire departments, the mayor must investigate or have investigated the cause, origin, and circumstances of any fire where damages exceed $100. The investigation must begin within two days of the fire. The mayor must report the fire to the state fire marshal. Within one week of the fire, the mayor must furnish a written statement to the state fire marshal.

Minn. Stat. § 412.02, subd. 1a.

All this without being a fulltime employee! Neither the mayor nor a council member may be a fulltime, permanent city employee.

But not so fast . . . In light of changes to state law and perhaps a myth or two, here are a few powers mayors do *not* have:

- Designation as the head of the police department (repealed).
- An automatic seat on the fire relief board (repealed).
- The duty of grasshopper inspector (repealed).
- The ability to marry people by virtue of the office (myth).

IV. Selected areas of law

There are a few major areas of municipal law of which every mayor should be aware simply because they are full of traps and easy to get wrong. Some include a particular role for the mayor, some do not. But they are all integral components to running a municipal corporation. This handbook is not intended to tell a mayor everything he or she needs to know about the law, or even these areas. But it should give a mayor enough information to know *when* to be cautious and find out more.

A. Open Meeting Law

Minn. Stat. § 13D.01, subd. 1.

With only a few exceptions, all city council meetings or gatherings must be open to the public. This rule applies not only to meetings of council, but meetings of any committee or subcommittee of council, as well as any board, department, or commission formed under the city's authority.

Moberg v. Indep. Sch. Dist. No. 281, 336 N.W.2d 510 (Minn. 1983). *St. Cloud Newspapers, Inc. v. Dist. 742 Community Schools*, 332 N.W.2d 1 (Minn. 1983).

The law does not define the term "meeting." The Minnesota Supreme Court, however, has ruled that under the Open Meeting Law, meetings are gatherings where a quorum or more of the council or other governing body, or of a committee, board, department, or commission of the city council or other governing body are present, and at which the members intentionally discuss, decide, or receive information as a group on issues relating to the official business of that body.

Minn. Stat. § 412.191, subd. 2.

The Open Meeting Law does not generally apply in situations where less than a quorum of the council is involved. However, serial meetings in groups of less than a quorum that are held in order to avoid the requirements of the Open Meeting Law may be found to violate the law, depending on the specific facts. As a result, while a mayor can call special meetings, in order to avoid the appearance of a serial meeting, the mayor shouldn't call a special meeting by directly contacting other councilmembers.

In most cities, the mayor has the authority to lead meetings. Therefore, it's critical that the mayor be familiar with the Open Meeting Law and its exceptions. Again, meetings of council must generally be open. In the following cases, however, the council *must* close a meeting:

Minn. Stat. § 13D.05, subd. 2(b). Minn. Stat. § 13.43, subd. 2(4).

- Meetings for preliminary consideration of allegations or charges against an individual subject to the public body's authority (unless the individual wants the meeting held open).

Minn. Stat. § 13D.05, subd. 2.

- Portions of meetings at which any of the following data is discussed:
  - Data that would identify alleged victims or reporters of criminal sexual conduct, domestic abuse, or maltreatment of minors or vulnerable adults.
  - Internal affairs data relating to allegations of law enforcement personnel misconduct or active law enforcement investigative data.
  - Educational data, health data, medical data, welfare data, or mental health data that are non-public data.
  - An individual's medical records governed by the Minnesota Health Records Act.

And in the following cases, the council *may* close the meeting:

Minn. Stat. § 13D.03. Minn. Stat. § 13D.01, subd. 3.

- Meetings to consider strategies for labor negotiations.

Minn. Stat. § 13D.05, subd. 3. Minn. Stat. § 13D.01, subd. 3.

- Meetings to evaluate the performance of an individual subject to the public body's authority (unless the individual wants the meeting held open).

Minn. Stat. § 13D.05, subd. 3.

Prior Lake American v. Mader, 642 N.W.2d 729 (Minn. 2002).

- Meetings between council and its attorney to discuss active, threatened, or pending litigation when the balancing of the purposes served by the attorney-client privilege against those served by the Open Meeting Law dictates the need for absolute confidentiality.

Minn. Stat. § 13D.05, subd. 3.

- Meetings to determine the asking price for real or personal property to be sold, review confidential or protected nonpublic appraisal data, or develop/consider offers or counteroffers for the purchase or sale of property.

Minn. Stat. § 13D.05, subd. 3.

- Meetings to receive security briefing and reports, to discuss issues related to security systems, to discuss emergency response procedures, and to discuss security deficiencies in or recommendations regarding public services, infrastructure, and facilities.

Minn. Stat. § 13D.05, subd. 1 (d).

Except for meetings closed under the attorney-client privilege, all closed meetings must be electronically recorded.

B. Data practices

Minn. Stat. ch. 13.

Cities are often asked to release information. In doing so, every city in Minnesota must comply with the Minnesota Government Data Practices Act (MGDPA). Government data means all data collected, created, received, maintained, or disseminated by the city regardless of its physical form, storage media, or conditions of use. This would include data one receives or creates in the capacity of mayor. The Act presumes that government data are public and are accessible by the public for inspection and copying unless there is a federal law, state statute, or temporary classification of data that provides differently.

Minn. Stat. § 13.02, subd 16.

Minn. Stat. § 13.03, subd. 2.

Minn. Stat. § 13.05, subd. 13.

If a city receives a request for government data, it is the role of the city-appointed "responsible authority" or their designee to respond. Unless the council decides otherwise, for statutory or home rule charter cities, the elected or appointed city clerk is the responsible authority by default. And if a home rule charter does not provide for a city clerk, the responsible authority is the chief clerical officer for filing and record keeping purposes.

Minn. Stat. § 13.05, subd. 13.

That person is responsible for the collection, use, and dissemination of any governmental data as well as other obligations of administering the MGDPA, including preparing a public document containing procedures that the official will use to administer the MGDPA. The responsible authority must appoint or also act as a "compliance official." The compliance official responds to questions or concerns from persons who are attempting to access data or enforce their rights. The MGDPA is one of the most complex laws that a city has to comply with. Accordingly, all elected officials should consult with the city's responsible authority before releasing any city data.

Minn. Stat. § 13.072.

To request an advisory opinion, write to the Commissioner of Administration, c/o Information Policy Analysis Division, 201 Administration Building, 50 Sherburne Ave. St. Paul, Minnesota 55155, (651) 296-6733 or (800) 657-3721.

IPAD opinions.

Cities may request advisory opinions from the commissioner of the Department of Administration on any question concerning public access to government data, rights of subjects of data, or classification of data. Advisory opinions are not binding, but a court or other tribunal must give deference to the opinion in a proceeding that involves the data in dispute. Cities that take action in conformance with the opinion will not be liable for compensatory or exemplary damages, awards of attorney fees, or penalties. Cities interested in requesting an opinion can contact the Department of Administration, Information Policy Analysis Division. The Department of Administration maintains an index to advisory opinions on its website.

Minn. Stat. § 13.08.

Minn. Stat. § 13.085.

Navarre v. South Washington County Sch., 652 N.W.2d 9 (Minn. 2002).

It's important to remember, there are *significant* administrative remedies and civil penalties for willfully releasing private and confidential data and for willfully refusing to release public data, including attorney's fees. In addition, a city that violates any provision of the MGDPA is liable for any damage as a result of the violation. The person damaged may bring an action against the city to cover any damages, plus costs and reasonable attorney fees.

Minn. R. 1205.0400, subp. 2.
Minn. R. 1205.0600, subp. 2.
See Chapter 4, Section I-B-1.

Mayors may wonder what right of access they themselves have to data that isn't public. Whether an elected official or staff, the law says that access is limited to individuals "whose work assignments reasonably require access." Whether the mayor falls into that legal description is a question for each city to decide with the help of the city attorney. For this reason, mayors shouldn't be surprised if they don't get a key to the city offices just because the mayor of another city does. And of course, there's always a difference between whether one can access private or confidential data and whether one should.

Since the data a person collects, creates, receives, maintains, or disseminates in the capacity of mayor is government data, a mayor may wish to be careful about where that data is created, collected, etc. Government data can easily, even accidentally, be created at home that is both public and subject to a retention schedule. Also, mayors may wish to take care in what they say in their official capacity within e-mails and even text messages.

Minn. Stat. § 13.601, subd. 2.
IPAD 97-002 (Jan. 15, 1997). and IPAD 97-014 (Apr. 1, 1997).
Minn. Stat. § 13.393.

The MGDPA states that correspondence between individuals and elected officials is private—though either party may make it public. At the same time, correspondence between elected officials and city employees is public unless it contains information specifically classified as non-public. This even applies to the city administrator's status reports to the city council. The attorney-client privilege, however, would apply to documents created for the purpose of giving legal advice, such as a letter between the city attorney and a city official.

Minn. Stat. § 13D.05.

The Open Meeting Law doesn't allow the closing of a meeting solely to discuss private data (except in limited circumstances clearly listed in the statute), and provides that private data may be discussed openly at any public meeting without fear of liability or penalty as long as the release of the data is reasonably necessary to conduct the business the data relates to. If private data needs to be discussed at a public meeting, it is recommended that the city try to protect the information by assigning numbers, letters, or similar designations to it, and that those designations be used instead of the actual data.

Discussing private data in a closed meeting does not change the fact that it is private. Therefore, even though an open meeting might have just occurred in which private data was discussed, that data shouldn't be discussed with family, friends, or the media as if it is now public information.

While in most cases private data may be discussed in an open meeting without fear of liability, mayors should remember the situations mentioned in the previous section in which the Open Meeting Law requires a meeting to be closed.

C. Contracts

Minn. Stat. § 471.345.

All cities contract for services and equipment, and laws govern many of those contracts. The most important contracting law to be familiar with is the uniform municipal contracting law.

Minn. Stat. § 471.345, subd. 2.

If a city plans to enter an agreement with any party for the sale, purchase, or rental of supplies, materials, or equipment, or the construction, alteration, repair, or maintenance of any city property, there is a process cities must follow depending upon the estimated dollar amount of the contract. This is true regardless of the source of funds, the size of the city, and whether a statutory or charter city.

Minn. Stat. § 471.345, subd. 3.

Minn. Stat. § 471.345, subd. 15(a).

State CPV program.

Minn. Stat. § 471.345, subd. 3a.

Minn. Stat. § 471.345, subd. 15(b).

If the amount of the contract is estimated to exceed $100,000, sealed bids must be solicited by public notice. Generally, the council must award the contract to the lowest responsible bidder. If a contract for supplies, materials, or equipment is estimated to exceed $25,000, the city must consider the availability, price, and quality available through the state's cooperative purchasing venture (CPV) program. If the CPV is not used, cities may purchase the supplies, materials, or equipment from certain national municipal associations' purchasing alliances or cooperatives.

Minn. Stat. § 471.345, subd. 3a.

If the contract to exceed $100,000 is for construction, alteration, repair, or maintenance work, and the city has received requisite "training," the contract may be awarded to the vendor or contractor offering the best value under a request for proposals described in statute.

Minn. Stat. § 471.345, subds. 4, 4a.

If a contract subject to the law is estimated to exceed $25,000, but not $100,000, the contract may be made either upon sealed bids or by direct negotiation. If by direct negotiation, the city obtains two or more quotations when possible, and without advertising for bids or otherwise going through competitive bidding. The best value provision applies to these contracts as well, and, again, the CPV must be considered.

Minn. Stat. § 471.345, subd. 5.

If the amount of the contract is estimated to be $25,000 or less, the contract may be made either upon quotation or in the open market, whichever council prefers. If the contract is made upon quotation it has to be based, so far as practicable, on at least two quotations, which must be kept on file for at least one year after their receipt. Best value is again an option for certain contracts.

None of these provisions apply to professional service contracts, and there are many other exceptions out of the scope of this handbook. Mayors should simply remember these laws as a basic starting point as well as the fact that only a majority of council may approve a contract on behalf of the city.

D. Budgeting

All cities must budget, and there are many technical requirements pertaining to city budgets. Cities have limited revenue streams coupled with annually growing expenditures. Cities have reporting requirements, publishing requirements, expenditure restrictions, funding obligations to fulfill, and often a requirement that citizens be allowed to participate in the budgeting process. And once again, council should rely on staff to help meet these requirements. But for the policy makers, budgeting is a critical annual exercise.

One thing the mayor was elected to do is to think about the city's goals and how to advance them. At budgeting time every year, the mayor can help focus council's discussion with the following sorts of questions:

- What does the city need and what are its goals?
- What can realistically be done about those goals and needs this year?
- What are the costs of the various options?
- How much does the city have and how will the city use its resources to fund the goals identified?

Having goals is always the city's starting point. From there, with a mayor's leadership, a city council can work with what funds it has, choose what it will fund, determine how much it will need, and thereby optimally manage citizen expectations and tax dollars.

E. Land use

Minn. Stat. §§ 462.351 to 462.365.

Land use encompasses many legal areas, which are not easily described concisely, but it amounts to enormous power for cities. The Municipal Planning Act gives cities the authority to regulate how land is used. It is only through uniform procedures given in these statutes that the city council decides where residences are allowed, approves proposed developments, and determines every regulation of land use that best serves a city's own "comprehensive plan." Equally important to passing land use ordinances as a legislative body is the council's responsibility to apply those ordinances—much like a court—when a certain use of land is proposed to council.

Most areas of land use law are uniform to all cities and dictated by state law. One area of land use that may differ from city to city is its regulation of public nuisances. When a use of land interferes with the enjoyment of those nearby, it may be a public nuisance. If it is, ideally council has enacted a nuisance ordinance to address such situations through removal, otherwise called abatement.

Minnesota law contains the procedures for zoning, subdivisions of land, and hearing requirements related to land use. It provides for a planning commission, an advisory group dedicated to helping council make land use decisions. It provides how cities may allow for uses of land upon certain conditions, and when approvals by the city must be recorded with the county.

As mayor, it's critical to be aware that a city has tremendous power to regulate land use, and that power itself is regulated by state law. The decisions the city makes must follow a dictated process, and cannot occur without the authority and approval of a majority of council. Often individuals and organizations come to the mayor—as apparent head of the city—and propose a land use project. While the mayor may be an excellent first contact for requests to the city, whether a sophisticated development company or the lone resident looking for help, the party might need to be reminded that formal approval requires the consideration of the full council, if not a planning commission first. A mayor may understandably be eager to encourage developers with personal commitments to see a project approved, but this is something to avoid.

F. City as employer

MN Department of Labor and Industry.

Federal Department of Labor.

As much law as there is governing land use, there are innumerable laws to know at the state, federal, and even local levels when it comes to employment. And the city can be held accountable if it violates employment laws or applicable union contracts. In short, there are many things to get wrong when it comes to employment. The following chart demonstrates common mistakes for merely some of the employment laws affecting cities.

Non-discrimination laws	Information	Common mistakes to avoid
Minnesota Human Rights Act (MNHRA) Title VII of the Civil Rights Act Age Discrimination in Employment Act (ADEA) Americans with Disabilities Act (ADA) Pregnancy Discrimination Act	These laws make it illegal to discriminate in the terms and conditions of employment (hiring, firing, compensation, training, etc.) based on **protected statuses, including:** • Race; color; creed; religion; national origin; gender (including pregnancy, childbirth, and related medical conditions); marital status; status with regard to public assistance, membership, or activity in a local commission; disability; sexual orientation; or age • A reasonable accommodation may be required for disability, religion, or pregnancy.	• Asking questions related to protected status in a job interview. • Failing to make reasonable accommodations for disabilities, religion, or pregnancy. • Allowing the protected status of an individual to have an influence on an employment decision (hiring, promotion, pay, training, etc.). • Making inappropriate statements about an employee's protected status. • Retaliation by supervisors or coworkers because of a discrimination complaint by an employee.
Veterans laws	**Information**	**Common mistakes to avoid**
MN Veterans' Preference	• Veterans must receive preference points for open, competitive positions within the city. • Veterans can only be terminated for "misconduct or incompetence." • Veterans must be given 60 days paid notice of intent to terminate, during which time they can request a hearing before a neutral panel.	• Failing to establish a 100-point test for open positions. • Failing to notify veterans of their right to a hearing prior to termination.
Compensation laws	**Information**	**Common mistakes to avoid**
MN Pay Equity Act Equal Pay Act Fair Labor Standards Act MN Fair Labor Standards Act	• The MN Pay Equity Act requires positions dominated by females be paid equal to comparable positions dominated by males. • The Fair Labor Standards Act (both state and federal) set requirements for minimum wage, overtime compensation, and employment of minors.	• Making decisions on employee pay without analyzing the effect on pay equity compliance. • Paying employees a salary with no overtime, when they are not legally "exempt." • Paying compensatory time at less than 1.5 times the hourly rate for non-exempt staff. • Failing to include on-call pay and other types of compensation in the hourly rate for the purpose of calculating overtime. • Withholding an employee's paycheck because of a dispute.

Leave laws	Information	Common mistakes to avoid
Family and Medical Leave Act MN Parenting Leave Act Uniformed Services Employment and Reemployment Rights Act State Military Leave	• Several state and federal laws require employers to grant time off in certain situations. Some of them also require the city to maintain certain benefits during the leave.	• Denying an employee time off from work when legally required to do so. • Retaliating against an employee because he/she took a legally protected leave of absence.
Union laws	**Information**	**Common mistakes to avoid**
MN Public Employment Labor Relations Act	• The MN Public Employment Labor Relations Act establishes the rules for collective bargaining. This includes union organizing, negotiation, and settlement of grievances. • PELRA provides the right for employee's to organize and express a view on any matter related to the conditions of compensation or public employment.	• Failing to follow the union contract. • Retaliating against employees because of participation in union organizing. • Failing to have union contract reviewed by legal counsel prior to council acceptance. • Asking interview questions regarding union participation such as "Are you okay with working in a non-union setting?"
Employee benefits laws	**Information**	**Common mistakes to avoid**
Continuation of coverage (federal and state) State continuation of retiree benefits Negotiating benefit changes with unions Patient Protection and Affordable Care Act (PPACA)	• Federal and state laws address continuation of coverage for individuals who lose certain benefits due to a qualifying event. • Minnesota laws specifically require public sector entities in Minnesota to offer indefinite coverage to retirees who are eligible for a public pension. • Cities with union contracts may be limited in changing the benefit levels or contribution structure under the city's health plan. Under Minnesota statute, the city cannot change the aggregate value of benefits without first negotiating with the unions. • PPACA requires large employers (50+ FTE's) to offer essential minimum coverage to substantially all employees averaging 30 hrs per week.	• Not offering a continuation of coverage option to employees of a small city who have terminated employment (even small cities—those under 20 employees—have continuation obligations under state continuation laws). • Only offering 18 months continuation to retirees. • Dropping continuation coverage once the retiree turns 65. • Unilaterally changing benefits and/or the city's contribution structure without first negotiating with the unions. • Not offering essential coverage and an employee purchases coverage through MnSure (State Health Exchange) and qualifies for a subsidy, the city may be subject to financial penalties. • Personnel Policies requiring employees to work over 30 hrs/wk to be benefit eligible – could result in penalties • Not providing notice to employees about their right to purchase health insurance through MnSure.

The most basic distinction mayors should know is the difference between having a city manager and having a city administrator or clerk. In the former, a city manager hires and fires the rest of the staff, and council hires and fires the city manager. In the latter, it is the council that hires and fires all staff. In either case, there are laws governing wages, leave, overtime, age requirements, unions, policies, and termination—to name a few areas. Ironically, the council must rely on staff as well as others to help the city be a legally compliant employer. This is one reason developing a healthy working relationship with the staff is critical.

See Chapter 4.

Mayors have no extraordinary authority when it comes to employment. Employment matters are likely to come up at council meetings, and the presiding member is wise to know when the meeting must or can be closed, and when it cannot. However, the mayor has no independent authority to hire or fire city staff, and decisions to do so must be the will of council.

Chapter 3: Meeting management

Meetings of city council are where the business of the city is conducted and vital decisions for the city's future are made. Meetings are often also the principal place where citizens interact with their governing body and form an impression about their city. As a result, meeting management is one of the most important components of a mayor's duties.

I. Role of the mayor in managing meetings

Minn. Stat. § 412.191, subd. 1.

The mayor of a statutory city is a member of the council, and has the same right to vote and make and second motions at meetings as the other councilmembers. Charter cities may have a different role for the mayor specified in their charter.

In addition to participating in meetings, mayors have two additional roles to play. They preside over the meeting to facilitate discussion and they preserve order.

A. Role of presiding officer

Minn. Stat. § 412.191, subd. 2.
Minn. Stat. § 412.121.

The mayor is the presiding officer of the meeting. In the absence of the mayor, the acting mayor must perform the duties of the mayor. The acting mayor is sometimes also called the mayor pro-tem and is usually appointed by the council.

See Section II – *Bylaws : policies on meetings management.*

See Minnesota Mayors Association Sample City Council Bylaws.

Rules of procedure may vary from city to city, depending on the council's bylaw or policies. Typically, however, the presiding officer at a meeting is the person vested with the authority to:

- Call a meeting to order and propose adjournment.
- Recognize and call upon speakers.
- Call for debate and vote on motions.
- Clarify or request clarifications of motions made by members.
- Rule motions out of order.
- Interpret and enforce any meeting management policies, bylaws, or rules of procedure.
- Call members to order if they disregard rules of procedure or decorum for the meeting.

See Minnesota Mayors Association Sample City Council Bylaws.

As the presiding officer, the mayor has a great deal of control and influence over how a meeting progresses—for example, who is heard and not heard and which topics are brought forward for discussion. However, this power is often not absolute. Most rules of order provide some method for members of the council to question the presiding officer's decisions and, on some occasions, to overrule them by a vote.

See Minnesota Mayors Association Sample Rules of Order for City Councils.

Because presiding officers have such influence over the meeting, most council bylaws or rules of order emphasize that presiding officers should strive to be fair and impartial. This often means listening more than speaking—even on contentious issues—and allowing councilmembers with opposing viewpoints to each have an opportunity to speak. A fair and impartial presiding officer protects the rights of all members to participate in the meeting.

1. Role in preserving order

Minn. Stat. § 412.191, subd. 2.

A statutory city council is authorized to preserve order at its meetings. The mayor, as the presiding officer, is also vested with some authority to prevent disturbances.

See Minnesota Mayors Association Sample City Council Bylaws.

City bylaws may vary from city to city. Typically, however, the presiding officer at a meeting is the person vested with the authority to preserve order by:

- Following the council's approved agenda and limiting discussion to current agenda items.
- Ruling on questions of procedure and entertaining appeals to rulings.
- Calling members of the council or public to order if they are being unruly or disruptive.
- Declaring meetings recessed or adjourned if they become too unruly.
- Requesting the removal of unruly or disruptive persons from the meeting room. The mayor may request the assistance of law enforcement if unruly persons refuse to depart the meeting rooms.

See Section III-A and IV-D.

II. Bylaws: policies on meeting management

Minn. Stat. § 412.191, subd. 2.

A statutory city council has the power to regulate its own procedures. Home rule charter cities may have similar provisions in their charters. Councils often regulate their procedures through the formal adoption of bylaws. Councils are not required to adopt bylaws for meeting management, but they are highly recommended for the following reasons:

See Minnesota Mayors Association Sample City Council Bylaws.

- Rules set common values and expectations for interactions among councilmembers.

- Rules can provide structure to a meeting, promoting timeliness and efficiency.
- Rules can help resolve conflicts in a positive way that promotes the best interests of the city, rather than allowing conflicts to grow, potentially disrupting city operations and slowing vital council decisions.

Many cities have adopted Robert's Rules of Order as a component of their bylaws. There is no legal requirement to use Robert's Rules, but it is common practice. Using Robert's Rules of Order has benefits and drawbacks for a city. Some of the benefits of using Robert's Rules are:

- They are familiar to many people who attend council meetings, including councilmembers, citizens, and others.
- They are readily available in many guides in various formats.
- They promote a level of formality, which some believe encourages courteous discourse.

There are, however, disadvantages to adopting Robert's Rules in its entirety to govern procedure at council meetings. Some of the disadvantages of using Robert's Rules are:

- They were not crafted with Minnesota law in mind and sometimes diverge from legal requirements for Minnesota cities.
- They were crafted to govern large bodies of assembly (such as a parliament), and are sometimes unwieldy for smaller bodies.
- While shorter condensed versions of Robert's Rules exists, typical volumes of the rules are 200 pages or longer. This can be difficult for new members to learn. Councilmembers who are unfamiliar with the intricacies of Robert's Rules may feel silenced by their unfamiliarity with technical points or outmaneuvered by councilmembers who are more familiar with the rules.

See Minnesota Mayors Association Sample Rules of Order for City Councils.

For these reasons, city councils may prefer to adopt a more simplified policy than Robert's Rules. Several other models exist, or the council can draft its own policy to fit the organization and desired level of formality. Sample council bylaws and rules of order are in the appendices of this handbook.

Whatever policy the council adopts, it should follow it. Although the council can vote to change or suspend its rules, it is probably better to stick with the adopted rules except on rare occasions.

III. Meeting decorum

Meeting decorum may be an aspect of the city council's bylaws or it may be a separate set of expectations and rules that may or may not be formally adopted in written form. Decorum is more easily enforced, however, when expectations are written.

A. Typical decorum requirements

See Minnesota Mayors Association Sample City Council Bylaws.

Typical rules of decorum require councilmembers to:

- Refrain from private conversation while in the council chamber that interrupts the proceedings of the council.
- Refrain from the use of offensive words, threats of violence, or other objectionable language in or against the council or against any member.
- Limit speech to subject of current debate.
- Abide by time limits for speaking.

More modern policies on decorum may also emphasize:

- Refraining from the use of cell phones or other personal electronic devices during meetings. In addition to being a decorum problem, this may also create problems under the Open Meeting Law.
- Allowing the use of cameras, video, and other recording devices, but requiring them to be used in an unobtrusive manner that does not disrupt or delay the meeting.

Rules of decorum are often also established to govern the conduct of the public when participating in meetings.

B. Enforcing decorum among councilmembers

Council meetings on important community issues may become contentious very quickly. Establishing rules of decorum before a controversy arises can prevent meetings from becoming unproductive due to conflict. On occasion, however, members of the council may not follow the rules. On these occasions, the mayor's role as the meeting's presiding officer is particularly important.

See Minnesota Mayors Association Sample City Council Bylaws.

Bylaws may vary from city to city. Generally, however, when councilmembers violate rules of order and decorum, the presiding officer is authorized to:

- Not recognize a breaching councilmember's request to speak, limiting their role in debate until decorum is observed.
- Declare the councilmember's actions out of order.
- Order removal from the council chambers by law enforcement until the councilmember agrees to abide by council rules of decorum.

In addition, if provided in the council's policy, generally any councilmember (including the mayor), may make a motion to censure a councilmember for conduct that breaches decorum. A censure often takes the form of a resolution adopted by council vote noting the councilmember's conduct and expressing disapproval of such conduct.

Minn. Stat. § 609.72.

State law also prohibits persons, including councilmembers, from disturbing public meetings, through fighting or threatening words and conduct. Councilmembers who engage in this unlawful conduct may be charged with a misdemeanor.

IV. Citizen input and audience participation in council meetings

Audience members do not normally have a right to take an active part in the council's discussion at a meeting. Only the council can make motions and vote at a council meeting. Audience members may not speak unless they have been recognized by the presiding officer.

A. Forums for public comment

See Minnesota Mayors Association Sample City Council Bylaws.

See Section IV-C.

Many city councils schedule a portion of each council meeting for public comment. These are often referred to as "open forums." During this part of the meeting, the presiding officer will recognize members of the audience to speak briefly on topics that concern them. These forums are different from formal public hearings required by law on specific issues.

It is a good idea to have a policy in place related to city responses to citizen input at meetings. Often it is a good idea to not respond immediately or to take direct action in response to citizen requests. Instead, the city should adopt a policy that refers most citizen comments or requests to city staff for further research and a written report back to council. This allows the city the opportunity to gather all the facts and make a measured and fair response.

While many councils recognize the value of citizen input, citizen comment can negatively affect meeting efficiency if not managed. For example, if a large number of audience members wish to speak, the meeting may not progress efficiently. Likewise, if one person spends a long time expressing his or her view, others may not get the opportunity to present their views. The following sections discuss ways to address some of these problems.

1. Limiting time

Some councils have addressed this problem by placing a limit on the amount of time audience members are allowed to speak at a meeting. For example, the council may ask people to limit their remarks to no more than three minutes or allow only a specified amount of time for the whole comment period. Time limits should be adopted in a policy and applied equally and neutrally to all members of the public.

2. Limiting topic

Another option may be to limit the scope of comments to those matters being addressed by the council at the specific meeting. While this may be a way to focus the meeting on the matters being addressed by the council, it might also keep people from making the council aware of any new issues. Cities considering this approach may want to consider other ways for people to bring up other topics. Limits on topic should also be adopted in a policy and applied equally and neutrally to all members of the public.

3. Advance written notice

As a third alternative, cities may choose to adopt policies that require advance notice of a person's desire to address council. The notice usually must be submitted in writing a few days before the actual meeting. The specific topic and the speaker's name are then put on the agenda. Such procedures are helpful in allowing the council to plan an efficient meeting. It also helps to remind the speaker that he or she may only address those issues listed on the notice.

B. Meeting disruptions and unruly citizens

Minn. Stat. § 412.191, subd. 2.

A statutory city council is authorized to preserve order at its meetings. The mayor, as the presiding officer, is also vested with some authority to prevent disturbances. Home rule charter cities may have similar provisions in their charters.

While council meetings must be open to the public, no one has the right to disrupt the council proceedings. When the council decides that a disorderly person should not remain in the meeting hall, the police may be called to execute the orders of the presiding officer or the council.

If the audience becomes so disorderly that it is impossible to carry on a meeting, the mayor has the right and duty to declare the council meeting temporarily recessed or adjourned to some other time (and place, if necessary). The members of the council can also move for adjournment.

If the mayor is not conducting the meeting in an orderly fashion, there is relatively little the other councilmembers can do to control the action of the presiding officer. However, a majority of the council can force adjournment whenever the councilmembers feel it is necessary.

Minn. Stat. § 609.72, subd. 1(2).

State v. Guy, 242 N.W.2d 864 (Neb. 1976).

A person who disturbs a lawfully held public meeting may be guilty of disorderly conduct. Any conduct that disturbs or interrupts the orderly progress of council proceedings is a disturbance that may be prevented, or punished if an ordinance violation is involved, without infringing on constitutional rights.

C. Public hearings

See Minnesota Mayors Association Sample City Council Bylaws.

A public hearing is a special type of city council meeting (or a portion of a meeting) designed to solicit public input and allow members of the public to express their opinions on a designated topic. Conducting a public hearing can pose different challenges to a mayor than conducting a regular council meeting. Cities may find it helpful to adopt rules of procedure for conducting public hearings and managing citizen comment.

There are two types of hearings: those that are discretionary, and those that are required by a specific statute, ordinance, or charter provision.

1. Discretionary public hearings

Many city councils will hold public hearings even when not legally required to do so. Generally, hearings of this type are for the purpose of allowing the public to comment on a specific issue of interest to the community. Such hearings can be helpful in raising concerns about an issue that the council may not have considered.

2. Required public hearings

See Minn. Stat. § 462.357, subd. 3. Minn. Stat. § 429.031 subd. 1(a). Minn. Stat. § 429.061 subd. 1.

On some matters, state statute requires that the council hold a public hearing before taking action.

The following are common matters that require public hearings:

Minn. Stat. § 462.357, subd. 3.

- Adoption or amendment of a zoning ordinance.

Minn. Stat. § 462.358, subd. 3b.

- Subdivision applications.

Minn. Stat. § 462.3595, subd. 2.

- Granting of a conditional use permit.

Minn. Stat. § 412.851.

- Vacation of any street, alley, public grounds, public way, or any part thereof.

Minn. Stat. § 414.033, subd. 2b.

- Annexation by ordinance.

Minn. Stat. § 429.031.

- Public improvements that will be specially assessed.

There are numerous other instances where a public hearing is required by state statute. When a public hearing is a legal requirement, it is important that the specific statute imposing the hearing be read and all conditions related to notice of the hearing be followed carefully. Often there are special notice requirements that are more substantial than the notice that is needed for a simple special meeting. For example, hearings mandated for zoning ordinance amendments have special notice requirements that may obligate the city to mail individual notices to nearby landowners. While a mayor should be generally aware of these requirements, usually city staff will keep abreast of them and work with council to ensure compliance.

3. Conducting public hearings

The focus of a public hearing is different from a regular council meeting. A public hearing is a meeting where members of the public can express their opinions. The mayor presides at the meeting in order to regulate the hearing and make sure that people who want to speak on the issue get the opportunity. The council does not deliberate or discuss matters during the public hearing portion of this type of meeting; instead, it listens to the public. Once the public comment period is finished, the council will often wrap up the meeting or move to the next agenda item.

In order to recess or continue a meeting of this sort, the council should not formally end the public comment part of the hearing.

V. Building an adequate record

Council meetings, including any special public hearings, are where city decisions are made and city business is conducted. Because city business affects citizens in vital and sometimes personal ways, such as the approval or denial of a land use permit, cities are required to keep an adequate record of their proceedings. In addition, an adequate record can be a vital tool in defending the city's decisions should a lawsuit result.

A. Legal requirements for meeting records

Minn. Stat. § 15.17.

Municipal officers must keep all records necessary to provide a full and accurate knowledge of their official activities. Keeping adequate records involves preserving through a records retention policy the documents that are considered by the council. These include such documents as bills, contracts, and correspondence. Another vital component of keeping adequate records involves taking meeting minutes.

1. Records retention

Minn. Stat. § 15.17.

Minn. Stat. § 138.225.

Minn. Stat. §§ 138.161-.21.

Records that public officers are required to keep, and those that are necessary and appropriate to the proper discharge of the duties of an office, are government records. It is a crime to destroy such records without statutory authority.

To get a copy of the General Records Retention Schedule, see "Records Retention Data" at www.mcfoa.org or contact the Research Department of the League of Minnesota Cities (651-281-1220 or 1-800-925 1122).

The state has adopted a general schedule for the retention and destruction of a variety of city records. This is commonly known as the "Records Retention Schedule." Cities that have adopted the general schedule have continuing authority to destroy listed records after keeping them for the prescribed time. A city must not destroy any government records that are not on the schedule without specific authorization from the State Records Disposition Panel.

2. Meeting minutes

Minn. Stat. § 412.151, subd. 1.

Whalen v. Minneapolis Special Sch. Dist. No. 1, 309 Minn. 292, 245 N.W.2d 440 (Minn. 1976).

A statutory city clerk must keep a minute book of all city council meetings. Generally the clerk has wide discretion as to how to keep the minutes. A verbatim record of everything that was said is not normally required. However, the law does require that the following be included in the minutes:

Minn. Stat. § 13D.01, subd. 4.
Minn. Stat. § 331A.01, subd. 6.
Minn. Stat. § 15.17, subd. 1.

- The members of the public body who are present.

Minn. Stat. § 412.151, subd. 1.
Minn. Stat. § 412.191, subd. 3.
Minn. Stat. § 331A.01, subd. 6.

- The members who make or second motions.

Minn. Stat. § 331A.01, subd. 6.
Minn. Stat. § 412.151, subd. 1.
Minn. Stat. § 412.191, subd. 3.

- Roll call vote on motions.

Minn. Stat. § 331A.01, subd. 6.
Minn. Stat. § 412.151, subd. 1.

- Subject matter of proposed resolutions or ordinances.

Minn. Stat. § 331A.01, subd. 6.
Minn. Stat. § 412.191, subd. 3.

- Whether the resolutions or ordinances are defeated or adopted.

Minn. Stat. § 13D.01, subd. 4.
Minn. Stat. § 331A.01, subd. 6.
Minn. Stat. § 412.151, subd. 1.
Minn. Stat. § 412.191, subd. 3.

- The votes of each member, including the mayor.

Home rule charter cities may have additional requirements in the charter.

Swanson v. City of Bloomington, 421 N.W.2d 307 (Minn. 1988).

Dietz v. Dodge County, 487 N.W.2d 237 (Minn. 1992).

Although not generally required by statute, several court decisions suggest that including certain information in the minutes can help to defend a city's actions should a lawsuit occur. The following types of data are examples of information that should be included in the minutes:

- ***Findings of fact.*** Case law requires them for land use decisions and some personnel decisions.
- ***The council's conclusions.*** Case law requires them for land use decisions and some personnel decisions.

- ***The specific reasons behind the council's conclusions.*** Examples would include such things as the economical, social, political, or safety factors that were considered when the council made a particular decision.

Minn. Stat. § 412.151, subd. 1.

- ***Signature of clerk and mayor.*** Because minutes would likely be considered official papers of the city, they should be signed by the clerk. And although the law does not require it, in many cities the mayor also signs the minutes after they are approved by the council.

3. Adequate records and defending city decisions

City councils make two types of decisions—legislative decisions and quasi-judicial decisions. A typical legislative decision a council makes is to adopt an ordinance. Legislative decisions are made when the city exercises its general lawmaking authority in a broad manner that applies city-wide.

In contrast, quasi-judicial decisions involve applying standards found in an ordinance or policy to individuals. A typical quasi-judicial decision a council makes is to grant or deny a landowners request for a zoning conditional use permit. Quasi-judicial decisions are made when the city exercises its authority over individuals to grant or deny their specific applications for privileges under existing city ordinance.

Both legislative and quasi-judicial decisions of the council may result in lawsuits against the city. When a reviewing court examines a city's decisions, it applies different standards of review to legislative decisions and quasi-judicial decisions.

a. Court review of legislative decisions

Swanson v. City of Bloomington, 421 N.W.2d 307 (Minn. 1988).

When reviewing a city's legislative actions, the court looks to see whether the actions were constitutional, rational, and in some way related to protecting the health, safety, and welfare of the public. This is known as the "rational basis standard," and it is a standard that is generally not difficult for cities to meet. The court may not always agree with a city council's decisions, but it will not substitute its judgment for that of the city council—if the council can establish through an adequate record that its actions met the rational basis standard.

b. Court review of quasi-judicial decisions

Northwestern College v. City of Arden Hills, 281 N.W.2d 865 (Minn. 1979).

In quasi-judicial situations, a reviewing court will more closely scrutinize the city's decision to determine whether they city has provided a legally and factually sufficient basis for its decision in an adequate record. This is especially true in the area of land use regulation such as zoning and subdivision.

In quasi-judicial situations, due process and equal protection are the main reasons for the more stringent scrutiny. Due process and equal protection under the law demand that similar applicants must be treated uniformly by the city. A reviewing court will overrule a quasi-judicial city decision if it determines that the decision was arbitrary (failed to treat equally situated applicants equally or failed to follow ordinance requirements).

c. Role of records in building the city's case

Swanson v. City of Bloomington, 421 N.W.2d 307 (Minn. 1988).

The public record is being increasingly reviewed by the courts to determine whether the city's action involved a reasonable means to a legal end. The law provides that cities have considerable discretion in developing plans, setting standards, and deciding applications. The public record, as a whole, must demonstrate that the city acted reasonably in enforcing its plans, standards, and regulations. It does not matter that the city acted reasonably if it is unable to prove its actions through the public record.

In reviewing the public record, courts look primarily to a city council's findings of fact. A city council must apply the facts to the law and find reasons upon which to base its decision. The reasons or rationale are referred to as findings of fact and need to be an adequate factual basis in the public record to support the council's decision. Inadequate findings may result in a reversal of the council's decision.

B. Mayor's role in building an adequate record

As the presiding officer at city meetings, the mayor can be essential to ensuring that an adequate record protects the city's decisions from being overruled by a court. Key ways to build a complete record include:

- Following rules of procedure that require formal motions for all council actions.
- Restating motions clearly for the minute taker prior to opening debate and voting.
- Announcing the vote clearly on city motions.
- Requesting that complex motions and all resolutions, findings of fact, and conclusions of law be reduced to written form.
- Allowing adequate time for public comment and participation at public hearings.

The mayor is not alone, of course, in working to build an adequate record. However, as presiding officer, the mayor can certainly provide necessary leadership to ensure that this important work for the city is accomplished.

Chapter 4: Mayoral Leadership

Mayors have the responsibility to exert leadership in city affairs. Because the mayors of statutory cities lack significant individual authority, this responsibility frequently calls for consensus building and tact rather than overt acts of direction or supervisory control.

Leadership plays an essential role in successful city governance. However, pinpointing the characteristics of a successful leader is no simple task. One thing is certain—no one trait alone creates a leader. Instead successful leadership depends upon a blend of several characteristics that can be pulled from the mayor's "tool kit" when needed.

In addition, mayoral leadership not only depends upon having the right tools in the tool kit, but also upon knowing when to use them. For example, no leader is successful simply because he or she is decisive alone, or thoughtful and measured all the time. Rather leaders are successful, because they are decisive when needed and thoughtful and measured at the right moment in time.

I. Key traits of successful mayors

While there are many differences in mayors, there are many common traits in their approach to governing that seem to strongly influence their success as leaders. These traits include the following:

- ***Successful mayors have an attitude of humility.*** All mayors can be justifiably proud that they have been elected—it is a significant accomplishment and a reflection of the trust that others have that they will be ethical and competent representatives. However, truly successful mayors are also humble; they realize that they are no smarter than before their election, that there is much to learn, and that much is expected of them.

- ***Successful mayors reject an attitude of entitlement.*** Effective mayors expect to give more than they receive. They recognize that their position is not one of entitlement, but rather one of responsibility to their constituents, council colleagues, and staff and—equally important—to the office they hold and will eventually pass on to others.

- ***Successful mayors are willing to learn.*** To have an open mind means to appreciate the value that comes from having ones opinions and ideas challenged. Successful mayoral leaders listen, respect diverse opinions, and realize that the correct decisions might be different than they initially believed.

- ***Successful mayors recognize the difference between being responsive and responsible.*** Often the mayor is the most visible representative of city government in the community. As a result, mayors may spend a great deal of their time simply listening to the concerns of their constituents—who are often also their neighbors, friends, coworkers, and customers. However, it is important to recognize that what is in the public's interest is often different than the sum total of each constituent's desires and needs. Successful mayors know that while it is sometimes appropriate to respond to the needs of individual constituents, in other instances they must act for the betterment of the whole community, even when some residents may not like it. It is essential to evaluate each decision against both principles, and have the courage to act appropriately.

- ***Successful mayors value partnership and teamwork.*** Effective governments are no more than effective teams. When the mayor, city councilmembers, and staff view each other as resources and partners, they are more likely to be able to meet their community's needs, no matter how difficult. However, when the city's elected officials are constantly looking for scapegoats and blaming staff or each other, it chills innovation and risk taking, leads to low morale and turnover, and ultimately to failure. Both elected and appointed officials must be held accountable, but mistakes will occur. Effective mayors spend their energy on learning from mistakes and how to avoid them in the future, and not on finding someone to blame.

- ***Successful mayors gather their facts before making decisions.*** Some issues that arise do require immediate action, even when all the facts or opinions have not been collected. However, successful mayors recognize that these rare situations are the exception rather than the rule. Mayors and city councils may at times feel enormous pressure from constituents to act immediately in response to a crisis or new event. Taking the time to plan a thoughtful, concerted response may not always be a popular decision. Nevertheless, it is important to recognize that, even in a crisis, better decisions invariably result when there is opportunity and effort to gather crucial information and thoroughly discuss alternatives.

II. Inspirational leadership

While mayors of statutory cities lack significant individual legal authority, their role as an inspirational leader of the city cannot be underestimated. Mayors can provide important leadership by promoting citizen involvement in government, championing long-term planning for the city's future, and promoting new programs and initiatives.

A. Promoting citizen involvement

Many observers of local government strongly correlate the level of engagement between citizens and their government with the overall success and vitality of a community.

1. The value of citizen involvement

Increasingly public officials are learning that one of the most effective ways to address challenging community issues is through citizen and stakeholder dialogue. When issues are discussed in citizen and stakeholder groups, people are able to more easily balance individual needs with the common good. Group interaction promotes civic skills—such as talking, debate, persuasion, negotiation, creativity, and compromise. When citizens with different viewpoints talk to each other to develop policy recommendations that serve the common good of the community, the participants:

- Learn more about the issues.
- Connect their personal experiences to the policy debate.
- Develop more detailed plans and policy recommendations.
- Are more likely to devote their own time and energy to implementing the action ideas they've recommended.
- Forge effective working relationships with others, including city elected officials and staff.

2. The mayor's role and citizen involvement

One of the easiest ways mayors can promote citizen involvement is by modeling compliance with the Minnesota Open Meeting Law—both the letter of the law and its intent—and other laws aimed at soliciting public input. For example, most changes to a city zoning ordinance will require a public hearing for citizen input. Modeling compliance and respect for the law builds trust in government, which in turn inspires greater citizen confidence, communication, and involvement.

Other ways that mayors can inspire citizen participation in government include:

- ***Be an advocate for your city's story.*** Mayors are often characterized as the ceremonial head of the city. As a result, they are often in the best position to communicate good news about the city and city programs. Mayors often communicate the good word through communications with traditional media (such as the local newspaper and local cable television shows), through discussions at council meetings, in city hall forums, in city newsletters, and on city websites.

- ***Be honest with constituents.*** Effective mayors are able to separate what is desirable from what is possible and to communicate this with constituents. It is important to communicate the dilemmas the city faces and real limits (budgetary or otherwise) that may hinder a much wanted city project such as a new ball field or hockey rink. Honest communications prevent unrealistic expectations on the part of city constituents and encourage them to engage the problem as an active participant alongside the city.

- ***Model respect and civility.*** The mayor is in a unique position as the presiding officer at city council meetings to model meeting decorum, civility, and respect. The mayor should conduct meetings in a manner that encourages open discussion of issues and honest differences of opinion, without the use of personal attacks, name calling or scapegoating. For both councilmembers and citizen participants in city meetings, the mayor can demonstrate that city hall is a safe place to voice one's point of view.

- ***Share information freely.*** The mayor can set the tone for city communications with citizens by communicating in a language that citizens can easily understand. Avoid acronyms and language that only insiders can interpret. Encourage your city council to consider placing public information such as the city code, meeting minutes, council packets, and committee information on the city's website. An informed and educated citizenry is an effective citizenry.

- ***Engage citizens as citizens.*** Cities often focus on providing courteous, prompt, and efficient customer service to their citizens. Employing concepts of customer service is a valuable tool in some instances. However, city residents are more than just customers of the city—they're citizens. Treat them like citizens. The mayor can serve an inspirational role in challenging citizens to think about their own obligations to build and maintain the community. Mayors can advocate for city councils to use surveys to ask citizens for their input or to hold town hall meetings to talk about long-term plans for the city, projects, and priorities.

- ***Be an advocate for engaging youth and diverse communities with government.*** Engaging younger generations and diverse communities can be a difficult challenge. Mayors can advocate for inclusion by making efforts to meet with constituents in places where they are comfortable—such as coffee shops, community centers, places of worship, and athletic events—rather than city hall. Mayors can promote interaction with school age citizens and encourage city councils to institute youth commissions and advisory boards. Finally, mayors can be advocates for using the Internet and technology to reach new citizen groups.

B. Long-term planning

The day-to-day demands of local government can be challenging. However, while working on the problems of the immediate present, it is vital not to forget the promise of the future. Many cities use long-term planning to guide daily decisions and to ensure that that their communities stay on track with longer-term goals.

1. The value of long-term planning

Minn. Stat. § 473.175.

Planning provides an opportunity for policymakers to consider the future impacts of today's decisions. Planning can take many forms, both formal and informal. Some planning may be mandated such as comprehensive land use planning for many cities in the metro area. Some formal planning that the city may be most familiar with include:

- ***Financial planning.*** A budget is a yearly plan for how the city will allocate its resources. In addition to budgeting, many cities have long-term financial plans for managing their cash flow, reserves, and investments.
- ***Capital planning.*** A capital plan sets priorities for city improvements and infrastructure such as a new city hall, recreational and community facilities, streets, and water and sewer facilities. A capital plan identifies the useful life of existing facilities, plans for their replacement or upgrading, and anticipates the need for new facilities in areas of growth.
- ***Land use planning.*** A land use plan anticipates and regulates future development of land within the city, establishing areas for growth or revitalization, and setting aside areas for preservation.

The formal plans discussed above help cities tackle specific concrete issues and challenges. Cities may also engage in broader planning or visioning process for their future. Cities may engage in planning processes with their citizens that ask broader questions such as: How can the city promote more inclusive democracy? How can the city create a more livable or equitable community?

Planning may address varying problems and goals. However, successful planning processes typically all have common beneficial secondary effects. Planning can also:

- Promote a shared understanding of important and complex issues and potentially a shared consensus for tackling difficult issues.
- Highlight alternative strategies for meeting big challenges.
- Create an understanding of the relationships between issues and strategies for meeting challenges.

2. The mayor's role in long-term planning

Certainly mayors in statutory cities do not have the authority to initiate or engage in long-term planning on their own initiative. However, as an inspirational leader, mayors can advocate the importance of long-term planning for a community—particularly when short-term considerations seem overwhelming.

One of the most concrete ways that mayors can promote long-term planning is in their role as presiding officer at city council meetings. Mayors can suggest that debate consider the long-term implications of city actions or that city decisions be evaluated for their consistency with long term plans already in place.

C. New programs and initiatives

A mayor's initiative project or program is a common way to create or revitalize interest in city services. Mayors in statutory cities must, of course, work closely with their city councils to gain approval for and financing of any new programs. However, it is important to stress that a mayor's initiative need not be a costly or expensive campaign. Some low cost mayor's initiative may center on promoting use of community parks and recreational opportunities or encouraging volunteerism. The mayor's role as ceremonial head of the city can often be harnessed to generate interest in valuable community projects.

III. Ethical leadership

Ethical leadership on the part of the mayor is vital to the functioning of the city and to maintaining the public's trust and confidence in both the city and the democratic process. In their duties as ceremonial leader of the city and as presiding officer at city meetings, mayors can play a significant role in promoting ethical government.

A. Key traits of ethical leaders

While most people agree that it is desirable to be an ethical person, deciding what is "ethical" in a given situation may be more difficult. Some common traits of ethical public officials are:

- ***Ethical mayors recognize that ethical questions may be complex.*** As a result, they are willing to seek out and accept the advice of knowledgeable officials such as the city attorney or senior city staff.

- ***Ethical mayors recognize that ethical conflicts are inevitable and should be dealt with forthrightly.*** Elected officials are human and citizens of their communities. On occasion, it is to be expected that they will have needs or roles in their private lives that conflict with the obligations of public office. Ethical officials are open about potential conflicts of interest and follow applicable rules for disclosing and dealing with the conflict (such as refraining from voting on a particular issue) to avoid even the appearance of impropriety.
- ***Ethical mayors are driven by fairness.*** The most ethical mayors recognize that many city decisions will have adverse as well as positive outcomes and they, therefore, strive to make the best decision as defined by its ultimate fairness to all concerned. This often means making impartial decisions on the merits of the issues alone, while disregarding personal allegiances. It can also mean taking into account interests of citizens who are not present or who have not otherwise commented, but who are nonetheless affected by a decision. Ethical officials try to make decisions in the best interest of all in the community, not just those who show up at a meeting or protest the loudest.
- ***Ethical mayors recognize the importance of conscientious and ethical government as a value in itself.*** Ethical mayors do not use their office or authority for revenge, prestige, or personal gain. Ethical mayors recognize that government is a human institution. As a result, the human motivations of those in government will determine if the government itself is effective or ineffective, good or bad, ethical or unethical. Ethical mayors care enough to make a positive difference and then act accordingly.

B. Ethics laws and official conflict of interest

State law includes extensive regulation on the ethical behavior of city officials and criminalizes violations of the law. State law regulates—among other things—conflict of interest, incompatible offices, and gifts to elected officials.

1. Official conflict of interest in contracts

Minn. Stat. § 471.87.

Generally state law prohibits public officers from having a personal financial interest in a sale, lease, or contract they are authorized to make in their official capacity. A "public officer" certainly includes a mayor, a councilmember, or an elected official.

Minn. Stat. § 471.88, subd. 1. *1989 Street Improvement Program v. Denmark Township*, 483 N.W.2d 508 (Minn. App. 1992).

An interested officer should disclose his or her interest at the earliest stage and abstain from voting or deliberating on any contract in which he or she has an interest. There are some exceptions to the general prohibition on contracting with city officials defined in state law. When the exceptions are used, generally the contract must be approved by unanimous vote of the council.

There are detailed procedures that must be followed to use any exception to the conflict of interest law. State statute and the city attorney should be consulted on the procedures to follow.

a. Statutory cities

Minn. Stat. § 412.311.

Statutory cities must consider an additional law. The law provides that no member of a statutory city council may be directly or indirectly interested in any contract the council makes, except for the limited exceptions discussed previously. This law may apply to some situations where the general law does not. For example, even though the actual contract is not made with a councilmember, the fact that he or she has an indirect interest in it could violate this law.

b. Home rule charter cities

Many home rule charters contain provisions on conflict of interest in contracts. Some of these go beyond the statute to include any city official, even though the official has no part in making the contract. These charter provisions may apply to situations where the statute does not. However, the exceptions discussed previously apply to all cities, despite any other statute or city charter. (Because charter provisions vary from city to city, they are not covered in this document.)

Some home rule charters contain provisions preventing all officers and employees from being interested in a contract with the city. Such a provision evidently applies to every city officer or employee whether or not he or she has a part in making contracts.

2. Conflicts of interest in non-contract situations

Conflicts in non-contractual situations, such as the approval of a license held by a councilmember or the determination of qualifications for office, may also arise. While conflicts in contractual situations are closely regulated by state law, unfortunately, there is little statutory guidance related to non-contractual conflicts. Guidance in these situations comes through Minnesota attorney general opinions and court decisions, including decisions of the Minnesota Supreme Court. This adds a layer of complexity to dealing with conflicts in non-contractual situations.

56 Am. Jur. 2d *Municipal Corporations* § 142. *Lenz v. Coon Creek Watershed Dist.*, 278 Minn. 1, 153 N.W.2d 209 (1967). *Township Bd. of Lake Valley Township v. Lewis*, 305 Minn. 488, 234 N.W.2d 815 (1975).

Generally any official who has personal financial interest in an official non-contractual action is disqualified from participating in the action. This is especially true when the matter concerns the member's character, conduct, or right to hold office. Another situation may be when the official's own personal interest is so distinct from the public interest that the member cannot be expected to represent the public interest fairly in deciding the matter.

Dealing with conflicts in non-contractual situations requires the advice and guidance of the city attorney.

3. Incompatible offices

State v. Sword, 157 Minn. 263, 196 N.W. 467 (1923). *Kenney v. Goergen*, 36 Minn. 190, 31 N.W. 210 (1886).

Generally all individuals in elected office are prohibited from holding incompatible offices. The question of whether a city official can also serve the city in some other capacity is quite complicated. One must look at both the statutory law and the common law that has been developed through Minnesota court decisions. The city attorney should be consulted on concerns about elected officials holding two separate offices.

4. Gifts to elected officials

Minn. Stat. § 471.895.

Elected and appointed "local officials" may not receive a gift from any "interested person." An "interested person" is a person, or representative of a person or an association, who has a direct financial interest in a decision that a local official is authorized to make. This law applies to all cities in Minnesota.

Minn. Stat. § 471.895, subd. 3.

There are a few exceptions to the gift law. Some commonly encountered exceptions include lawful campaign contributions and food or beverages given at a reception, meal, or meeting the official has been invited to attend.

5. Other laws on ethical behavior

Various other state laws regulate the ethical behavior of elected officials. A non-exhaustive list of these laws includes:

Minn. Stat. § 15.054.

- ***Sale of government-owned property.*** In general officers and employees of the state or its subdivisions are prohibited from selling government-owned property to another officer or employee of the state or its subdivisions. However, the law does not apply to the sale of items acquired or produced for sale to the general public in the ordinary course of business. In addition, the law allows government employees and officers to sell public property if the sale is in the normal course of their duties.

Minn. Stat. § 471.895. Minn. Stat. § 10A.071. Minn. Stat. § 10A.01, subd. 21.

- ***Gifts from lobbyists for officials in metropolitan cities with populations over 50,000.*** Metropolitan cities with a population over 50,000 are subject to an additional law related to gifts. Local officials in these cities are also prohibited from receiving gifts from "lobbyists." A "lobbyist" is defined as someone engaged in lobbying in the private or public sector, or a city employee or non-elected city official who spends more than 50 hours in any month attempting to influence governmental action.

Minn. Stat. § 10A.07.

- ***Conflict of interest and economic disclosure in metropolitan cities with populations over 50,000.*** Elected and appointed officials of metropolitan cities with populations over 50,000 must disclose certain information if they will be involved in a decision that will affect their financial interests. The law affects elected or appointed city officials, or city employees with authority to make, recommend, or vote on major decisions regarding the expenditure or investment of public funds. The law applies if the official or employee must make a decision or take an action that substantially affects his or her financial interests or those of a business with which he or she is associated. However, there is an exception if the effect is no greater for the interested business than for others in that business, occupation, or position.

Minn. Stat. § 10A.01, subd. 29.

Minn. Stat. § 10A.09, subds. 6a, 1.

- ***Statements of economic interest.*** City officials in cities within the seven-county metropolitan area with populations over 50,000 (as determined by the most recent federal census, a special U.S. census, an estimate by the Met Council, or the state demographer) must file a statement of economic interest. The statement must be filed with the local official's governing body and the Minnesota Public Disclosure Board.

6. City values statements and ethics policies

Ethical expectations can be difficult to convey. In addition, the conflict of interest laws are scattered throughout many statutes and court cases, making them difficult to find and hard to interpret. As a result, some cities have developed and adopted their own policies on ethics and conflicts of interest. Policies must be consistent with state law. Generally these policies can take two forms: a values statement expressing core principles for ethical conduct, or a formal code of conduct. Cities may adopt a values statement or a code of conduct or both. However, it is important to note that state law does not require formal adoption of a city ethics policy.

a. Values statements

See LMC Sample Statement of Values.

Values statements are written to reflect the core ethical values of the city. They are a way to compare preferred values against actual behaviors. Values statements may take many forms, but generally they contain four to six cardinal values surrounded by "I" statements and examples. For example, "I serve the public interest when I recognize and support the public's right to know the public's business." Values-based codes generally set aspirational "do's," while codes of conduct stress "don'ts," as discussed below.

b. Codes of conduct

See LMC Sample Code of Conduct.

Codes of conduct are written more like bylaws or regulations for an organization. Generally they prescribe explicit standards of behavior and provide for formal complaints, hearings, and censure. For example, a code of conduct might state, "No member may knowingly violate the Open Meeting Law."

c. Enforceability

i. Values statements

Because of the aspirational and sometimes subjective nature of values-based codes, formal enforcement might be difficult and likely counterproductive. Compliance is better left to the individual's conscience.

ii. Codes of conduct

Minn. Stat. § 410.20.

Charter cities may provide for recall of elected public officials in their charter. However, recall of public officials is not possible in statutory cities. In addition, there is no authority in state statute to provide for removal of a councilmember by vote of the council or through application of a city-based ethics policy. There is also no authority to levy fines for violations.

As a result, city codes of conduct for elected officials are generally enforced through censure. Censure is a formal resolution of council stating that a councilmember has violated the city's ethical rules and expressing disapproval of his or her actions.

IV. Mayor-council relationship

Because the mayors of statutory cities lack significant individual authority, the key to a successful mayor-council relationship often lies in recognizing the mayor's role (and its limits) and working from there to build productive partnerships with fellow councilmembers.

A. Meetings and the mayor-council relationship

See Chapter 3.

Because of the Minnesota Open Meeting Law, most interaction between mayor and council will occur in public during an open meeting where the mayor is the presiding officer. As a result, meeting management and meeting decorum are key to developing a successful mayor-council relationship. Some keys to success in this area include:

See Minnesota Mayors Association Sample City Council Bylaws.

- ***Presiding officers should not dominate discussion.*** In most cities, the mayor participates equally in council meetings. Generally the mayor has the same right as any other councilmember to discuss issues, make and second motions, and vote. Since the mayor is also a presiding officer at meetings, this can create a difficult situation on issues where the mayor may have strong views. In recognition of their dual role as participant and meeting facilitator, mayors may choose to limit their comments or save their comments until all other members have had a chance to voice their views. However, this is not a legal requirement, just common practice. If the mayor has particularly strong views on an issue, some city policies on meeting management allow the mayor to step aside as presiding officer and for the appointment of a temporary presiding officer.

- ***Presiding officers should allow all participants to speak and present their views.*** The role of the presiding officer is to facilitate the discussion. Most city policies on meeting management prohibit speaking out of turn, and require the presiding officer to recognize a councilmember prior to speaking. The reason for this requirement is to prevent the inevitable disorder and confusion of many voices speaking at once. It also greatly simplifies the work of the minute taker and allows an accurate record to be created. Mayors should not use this authority to silence political opponents or suppress views with which the mayor does not agree.

- ***Presiding officers should know and enforce applicable city policies on meeting management and/or rules of procedure.*** Successful meetings require leadership to keep participants on task. Most city policies on meeting management specify expected conduct for meetings that is essential to an organized meeting. For example, time limits on comments by participants, procedures for being recognized by the presiding officer before speaking, limits on public participation, formal language for making and amending motions, and procedures for voting. If the presiding officer is not familiar with or does not enforce the city policies or rules, often there is little recourse for other meeting participants to enforce the rules themselves. This may create frustration, delay or unduly extend meetings, lead to confusion over actions taken, and potentially create embarrassment for the council as a whole.

- ***Presiding officers should model and enforce decorum.*** The mayor is in a unique position, as the presiding officer at city council meetings, to model meeting decorum, civility, and respect. The mayor should conduct meetings in a manner that encourages open discussion of issues and honest differences of opinion, without the use of personal attacks, name calling or scapegoating. Civility and decorum, perhaps more than any other factor—both inside meetings and outside – is the key to building successful relationships with council.

B. Keys to team building success

Many observers of government have linked city success with the ability of the mayor and council to work together as a team. Both inside meetings and during one-to-one interactions, mayors can promote a team model of government by:

- ***Sharing information freely.*** Mayors sometimes play a unique role for the city in meeting with citizens, business representatives, and other governmental officials and dignitaries. In addition, mayors may have unique duties as meeting leaders, agenda setters, emergency managers, and public spokespersons, depending on each city's policies. As a result, mayors often obtain vital information related to the city's operations before other councilmembers and even city staff. Timely sharing of information equally with all stakeholders and in an inclusive manner is a key to successful team building. It is important to stress, however, that information should only be shared in a manner that complies with all legal requirements such as the Minnesota Open Meeting Law.
- ***Communicating honestly.*** On occasion, bad news is both the hardest news to convey and the most vital. Not everything in your city will be a total success. While there may be a temptation to resolve a short-term dilemma by providing only partial information to fellow councilmembers, this approach can have long-term and long-lasting negative effects. Failing to communicate honestly erodes trust and may damage the city council's ability to make collaborative decisions.
- ***Working collaboratively to establish visions, goals, and priorities.*** When priorities and policies are set collaboratively they often have greater stakeholder buy-in. Knowing that their position was at least considered often goes a long way in satisfying councilmembers whose positions ultimately do not prevail.

V. Mayor-staff relations

See Chapter 2.

Not all cities are alike. Depending on the city's form of government, staffing structures will vary. It is important for a mayor to have an understanding of the city's form of government and its corresponding staff structure.

A. City staff and their roles

City staff positions and roles are created by a combination of state statute, local ordinance, and city policy. In addition, some charter cities may have provisions in their charter creating and defining staff roles.

1. City manager and city administrator

The terms "city manager" and "city administrator" are sometimes used interchangeably, but they are two legally distinct concepts. City managers can only exist in Plan B cities or home rule charter cities that provide for the council-manager form of government. No form of government requires an administrator position. It is most common, however, to see an administrator in a Plan A city. City managers and city administrators have very differently defined roles.

a. City administrator

The position of city administrator is usually created by ordinance or resolution. Sometimes the administrator position exists in addition to a separate city clerk position, but in smaller cities the duties are often merged into a combined clerk-administrator position.

Since state statutes do not specifically provide for a city administrator, or define the powers of the position, duties can vary greatly from city to city. The extent of the city administrator's powers may be defined locally by a combination of ordinance, city policy, and job descriptions. In smaller cities the responsibilities may essentially be an expansion of the city clerk's duties. Other cities, typically larger cities, may give the administrator broader powers so that he or she essentially functions as a city manager with duties as discussed below.

b. City manager

Minn. Stat. § 412.631.

The Plan B form of government is also known as the council-manager plan. It consists of the elected mayor, four or six elected councilmembers, and an appointed city manager. There are 16 Plan B cities in Minnesota. Several home rule charter cities have also adopted the council-manager plan through their charters. An election must be held to become a Plan B city.

In Plan B cities, the council retains legislative and policy-making authority, but most administrative responsibilities, such as hiring and firing, are delegated to the city manager. The council's control over these matters is indirect, essentially through its selection and retention of a manager.

Minn. Stat. § 412.611.

Unlike the position of city administrator, the duties of a city manager are clearly defined by state statute for Plan B cities. Charter cities should consult their charter for a listing of the manager's duties. In Plan B cities, state law establishes the city manager as the head of the administrative branch of government, and the person who is responsible to the council for the proper administration of all city affairs. As a result, city managers are vested with the power to appoint and remove city staff. This includes the city clerk, all department heads, and subordinate officers and employees. Neither the council nor any individual councilmember may dictate the appointment of any person to office or employment by the manager. Councilmembers may not interfere with the manager's judgment in appointing personnel. Likewise, the council may not give orders to any subordinate of the manager. Instead, the council's control is indirect, through its selection and appointment of the manager.

City managers also have defined and expansive powers related to budgeting, finances, and enforcement of city ordinances.

2. City clerk

All cities in Minnesota have the position of a city clerk. The clerk may be the city's only administrative official or may be supervised by a city administrator or city manager (in cities that have those positions). Minnesota cities have one of three types of city clerks: elected, appointed, or home rule charter clerks. Appointed clerks are the most common type of clerk. The duties of both elected and appointed clerks are defined by state statute. Further, the council may develop other ministerial duties specific to the city's needs. Charter cities should consult their charter for a listing of the clerk's duties.

A non-exhaustive list of the duties of clerks in statutory cities includes:

Minn. Stat. § 412.151, subd. 1.

- Post and publish such notices, ordinances, and resolutions as may be required, including notices of meetings required by the Minnesota Open Meeting Law.
- Keep a minute book containing all of the city council proceedings, and an ordinance book recording all of the ordinances passed by the council.
- Act as a bookkeeper of the city and keep an account book to enter all money transactions of the city, including the dates and amounts of all receipts, the person from whom the money was received as well as all orders drawn upon the treasurer with their payee and object.
- Administer all city elections.

B. Job direction and supervision

See Chapter 2–IV–F.

In statutory cities, mayors have no authority to directly supervise city staff or provide direction to city staff. Likewise there is no authority for the mayor, acting as an individual, to appoint or terminate staff, or to investigate or discipline employees. The authority to supervise staff is delegated to the council as a whole, not to any one individual on council. Charter cities may provide some authority for direct supervision.

In Plan B statutory cities and most council-manager charter cities, the city manager has all administrative authority over city employees. City councils as a whole may indirectly supervise staff through their ability to hire and fire the city manager and to set city policy.

In statutory, non-Plan B cities, the city council as a whole supervises employees by:

- ***Providing direct instruction to staff at a city council meeting.*** For example, making and approving a motion to "direct the city clerk to research grant opportunities for equipment in the city parks" or "direct the city clerk to work with the mayor to develop a job description for a utility billing secretary."
- ***Adopting policies that govern staff behavior.*** For example, the city's employee handbook may instruct staff to wear uniforms, punch in on a time clock, or follow explicit purchasing procedures. The city council may also establish policies on promotions, wage increases, benefits, etc.
- ***Establishing job descriptions listing staff duties.*** For example, the city clerk's job description may require the clerk to supervise a deputy clerk, or a police sergeant's job description may require the sergeant to act at a school liaison officer.
- ***Entering into employment contracts with specific conditions for employment.*** For example, a city administrator's contract may set provisions for severance or performance goals, or a union contract may set criteria for benefit increases.
- ***Conducting employment reviews.*** In some cities, the city council directly conducts employment reviews for all staff, or merely for high level staff such as the city administrator. In the alternative, council may delegate this function to city staff such as the city administrator, or to an employee review committee.
- ***Conducting or authorizing investigations into employee conduct.*** For example, the city council may hold a closed meeting to discuss alleged conduct with a city employee. In the alternative, the city council may authorize the city administer, attorney, or an outside investigator to investigate a specific issue and report back to council at a later date.

- ***Hiring and terminating employment.*** For example, the city council may make the decision to lay off classes of employees, or terminate employment for misconduct.

Elwood v. Rice County, 423 N.W.2d 671 (Minn. 1988). Rico v. State, 472 N.W.2d 100 (Minn. 1991). *In re Alexandria Accident of Feb. 8, 1994,* 561 N.W.2d 543 (Minn. Ct. App. 1997) (snowplow driver). *Kari v. City of Maplewood*, 582 N.W.2d 921 (Minn. Ct. App. 1998) (emergency vehicle). *Kelly v. City of Minneapolis,* 598 N.W.2d 657 (Minn. Ct. App. 1999) (police officer). Minn. Stat. § 466.07.

Attempts to directly supervise or direct employees, without city council consent or direction, may create unintended legal liability for a mayor. Generally the doctrine of official immunity protects public officials from lawsuits based upon discretionary actions taken in the course of their official duties. Additionally, state statute requires cities to defend and indemnify councilmembers for any suit arising from their official duties. However, these doctrines may not protect a mayor if he or she is found to be acting outside the scope of his or her duties. In addition, it is important to note that neither official immunity nor the statute applies when a mayor or councilmember acts with malice or in bad faith.

Aside from legal liability, attempting to directly supervise staff may also have the effect of creating confusion for staff, who may receive conflicting direction from multiple sources. This confusion may delay important city actions, create unnecessary expense, or itself be a source of legal liability.

1. Access to employee records

Minn. Stat. § 13.43, subd. 1. Minn. Rule 1205.0400.

Most employee data is defined as private data that is not accessible to the general public. As a result, access to employee files is limited to individuals whose job duties reasonably require access to private data. Since the mayor or individual councilmembers do not have individual authority over city personnel, they cannot generally access this private information on their own initiative. However, the council could authorize the mayor or an individual councilmember to view the data for job-related reasons. For example, if the mayor is assigned to an employee review team.

VI. Conclusion

The Minnesota Mayors Handbook is a starting point for all you need to learn to be a successful mayor. The handbook is designed to highlight key areas of knowledge without being an exhaustive guide. Remember, this is only the starting point! Some sections pinpoint potential legal pitfalls for mayors or advise caution on common areas of liability. The purpose of this guide is to give you just enough information in these critical areas to help you recognize these situations and to know where to turn for more resources and assistance.

League of Minnesota Cities *Handbook for Minnesota Cities.*

League of Minnesota Cities *HR Reference Manua.l*

To join the mayor's listserv, contact ksundheim@lmc.org

As you seek to increase your knowledge base, remember the Minnesota Mayors Association. Your fellow mayors can be among your most important resources! The Mayors Association offers a continuing education conference each spring and maintains a listserv for mayors on the League of Minnesota Cities website. In addition, never hesitate to ask city staff—these experienced professionals can be another critical asset. Finally, the League of Minnesota Cities has in-depth materials available on all the topics (and more) discussed in this handbook.

Finally, this handbook concludes with two sample documents that have been referenced throughout the chapters. These are:

- The Minnesota Mayors Association Sample City Council Bylaws (Appendix A).
- The Minnesota Mayors Association Sample Rules of Order (Appendix B).

Many city councils find that adopting formal bylaws and rules of order is the key to a successful working relationship between mayor and council. In addition, the sample rules of order contain tips for running successful meetings.

Appendix A

Minnesota Mayors Association

City Council Bylaws

I. ***AUTHORITY.*** City councils are authorized to adopt rules of procedure and provide for order at their meetings pursuant to Minn. Stat. § 412.191.

II. ***PURPOSE.*** The purpose of this policy on city council meetings is to set the groundwork for orderly and respectful communications between and among councilmembers, city staff, and citizens to promote the efficient working of the public's business at city council meetings.

III. ***THE OPEN MEETING LAW.*** The Minnesota Open Meeting Law, Minn. Stat. ch. 13D, generally requires that all meetings of public bodies be open to the public.

A. This presumption of openness serves three basic purposes:
   1. To prohibit actions from being taken at a secret meeting, where it is impossible for the interested public to become fully informed concerning decisions of public bodies, or to detect improper influences.
   2. To ensure the public's right to be informed.
   3. To afford the public an opportunity to present its views to the public body.

B. The city council views providing and encouraging citizen access to city meetings as one of its most important duties. As a result, all council and council committee meetings, including special and adjourned meetings, with the exception of closed meetings, as provided by Minn. Stat. ch. 13D, shall be open to the public.

C. In calculating the number of days for providing notice under the Minnesota Open Meeting Law, the first day that the notice is given is not counted, but the last day is counted. If the last day is a Saturday, Sunday, or legal holiday, that day is omitted from the calculation and the following day is considered the last day (unless, it happens to be a Saturday, Sunday, or legal holiday).

D. In keeping with the intent of the Minnesota Open Meeting Law, city councilmembers shall not use any form of electronic communications technology, such as text messaging or e-mail, to communicate with one another or third parties during a public meeting in a manner that is hidden or shielded from the public view.

E. Pursuant to Minn. Stat. § 13D.01, subd. 6, at least one copy of the written materials made available to council at or before the meeting shall also be made available for inspection by the public, excluding any non-public data, attorney-client privileged data, or materials related to agenda items of closed meetings.

IV. ***QUORUM.*** A simple majority (_____) of the council shall constitute a quorum for the valid transaction of any scheduled business to come before the council.

V. ***COUNCIL MEETINGS.***

A. ***Location.*** All meetings, including special, recessed, and continued meetings, shall be held in the city council chambers, unless otherwise designated, pursuant to Minn. Stat. § 13D.04, subd. 2.

B. ***Regular meetings.*** A schedule of regular meetings shall be kept on file with the city clerk.

C. ***Special meetings.*** A special meeting is a meeting that is held at a time or location different from that of a regular meeting. A special meeting may be called by the mayor or any two city councilmembers by filing a request for the meeting at least three days before the meeting. Days shall be counted as provided in III-C. Notice to the public of special meetings must be given pursuant to Minn. Stat. § 13D.04, subd. 2.

D. ***Emergency meetings.*** An emergency meeting may be called by the mayor or any two city councilmembers. An emergency meeting is a special meeting called because of circumstances that, in the judgment of the public body, require immediate consideration by the public body. Posted or published notice of an emergency meeting is not required. However, the city will make a good faith effort to notify each news outlet that has filed a written request for notice. Notice must be given by telephone or any other method to notify members of the public body. The notice must include the subject of the meeting.

E. ***Closed meetings.*** The Minnesota Open Meeting Law allows some meetings to be closed to the public for defined purposes. When a meeting is closed, the presiding officer at the council meeting will state the reason for closing the meeting on the record and cite the state statute that permits closure.

F. ***Recessed or continued meetings.*** When a meeting is recessed or continued, the presiding officer shall state the time and place for the next meeting to occur pursuant to Minn. Stat. § 13D.04, subd 4. The time and place shall be noted in the minutes. If the time and place is stated and noted in the minutes, no additional notice of the meeting is required. However, if the time and place is not stated, the notice procedures for special meeting shall be required.

G. ***Organizational meetings.*** The council will conduct its organizational meeting concurrent with the first regular council meeting in January of each year to:

1. Appoint an acting mayor pursuant to Minn. Stat. § 412.121.
2. Select an official newspaper pursuant to Minn. Stat. § 412.831.
3. Select an official depository for city funds. This must be done within 30 days of the start of the city's fiscal year pursuant to Minn. Stat. §§ 427.01-.02; 118A.02, subd 1; 427.09.
4. Review council's bylaws and make any needed changes.
5. Assign committee duties to members.
6. Approve official bonds that have been filed with the clerk.

VI. ***PRESIDING OFFICER.*** The mayor shall preside at all meetings of the city council.

A. ***Role of the presiding officer.*** The presiding officer shall preserve order, enforce the City Council Rules of Order and Procedure as adopted in VII, and determine, without debate, all questions of procedure and order, subject to the final decision of the council on appeal as provided in VI-D. The presiding officer shall determine which member has the right to speak and may move matters to a vote once the officer has determined that all members have spoken. The presiding officer may determine whether a motion or proposed amendment is in order and may call members to order.

B. ***Adjourning meetings.*** If considered necessary, because of grave disorder, the presiding officer may adjourn or continue the meeting to another time or suspend the meeting for a specified time.

C. ***Designation of a sergeant-at-arms.*** The presiding officer may request that local law enforcement designate a member to serve as a sergeant-at-arms at city council meetings. The sergeant-at-arms shall carry out all orders or instructions given by the presiding officer for the purpose of maintaining order and decorum at meetings.

D. ***Motions and voting.*** The presiding officer may make motions, second motions, speak on any questions, and vote on any matter properly before the council.

E. ***Absences of the presiding officer.*** In the absence of the mayor, the acting mayor shall preside. In the absence of both the mayor and the acting mayor, the city clerk/administrator shall call the meeting to order. The first order of business shall be to select a presiding officer for the meeting from the members present. The city clerk/administrator shall preside until the councilmembers present choose a member to act as presiding officer.

F. ***Appeals of rulings of the presiding officer.*** Any member of the council may appeal to the full council a ruling on order or procedure made by the presiding officer.

    1. ***Procedure for appeals.*** An appeal is made by motion. No second is need for the motion. The member making the motion may speak once solely on the question involved, and the presiding officer may speak once solely to explain his or her ruling, but no other councilmember may participate in the discussion.
    2. Once both the maker of the motion and the presiding officer have spoken, the matter must be voted upon by the council as a whole.
    3. The appeal shall be sustained if it is approved by a majority of the members present, exclusive of the presiding officer.

G. ***Temporary designation of a presiding officer.*** The presiding officer may choose to designate a temporary presiding officer before participating in debate on a given matter. In the alternative, the council may by majority vote designate a temporary presiding officer to preside over the debate on a given matter. The presiding officer shall resume presiding as soon as action on the matter is concluded.

VII. ***RULES OF ORDER AND PROCEDURE.*** The proceedings of the city council shall be conducted in accordance with the Minnesota Mayors Association Rules of Order for City Councils.

VIII. ***DECORUM OF COUNCILMEMBERS***.

A. ***Aspirational statement:*** All councilmembers shall assist the presiding officer in preserving order and decorum and in providing for the efficient operation of the meeting.

B. ***Aspirational statement:*** No councilmember shall engage in conduct which delays or interrupts the proceedings or which hinders honest, respectful discussion and debate.

C. ***Aspirational statement:*** City council meetings shall be conducted in a courteous manner that recognizes the validity of differing points of view and promotes the ideal of democratic discussion and debate free of insult, slander, and personal attacks and threats.

D. To effectuate these aspirational goals, city councilmembers shall conduct themselves at council meetings in a manner consistent with the following:

1. No councilmember shall engage in private conversation or pass private messages while in the chamber in a manner so as to interrupt the proceedings of the council.
2. No councilmember shall leave his or her seat or make any noise of disturbance while a vote is being taken and until the result of the vote is announced.
3. No councilmember shall use profane or obscene words or unparlimentary language or use language that threatens harm or violence toward another person during a council meeting.
4. No councilmember shall speak on any subject other than the subject in debate.
5. No councilmember shall speak without being recognized by the chair; nor shall any councilmember interrupt the speech of another councilmember.
6. No councilmember shall disobey the City Council Rules of Order and Procedure adopted in VII or a decision of the presiding officer on questions of order or practice or upon the interpretation of the rules of council.
7. No councilmember shall engage in disorderly conduct that disturbs or disrupts the orderly conduct of any meeting.

IX. ***VOTING.***

A. The votes of the city council will be taken by voice vote. The presiding officer shall announce the results of all votes of the council.

B. A clear statement of the matter being voted upon and the names of those voting for and against the matter shall be recorded in the official minutes.

C. Councilmembers may ask for a roll call of the vote by the clerk/administrator on any motion or resolution.

D. The clerk/administrator may ask for a verification roll call if the vote of a councilmember is not clear on the voice vote.

E. A majority vote of the quorum present shall be sufficient for all matters before the council, unless otherwise provided by state law.

F. Whenever a matter is put forward for a vote, every councilmember shall vote, unless a bona fide conflict of interest, as defined by state law, exists.

X. MEETING SCHEDULE.

A. Each meeting of the council shall convene at the time and place appointed. All public hearings shall commence at the advertised time.
B. Council business shall be conducted in the order of the prepared agenda, unless an alteration is approved by a majority of the council. The prepared agenda may also be altered by the presiding officer to accommodate the advertised time of a public hearing.
C. The last item on the agenda will be commenced no later than _____ p.m.
D. If all business has not been completed, the meeting may be continued to another date and time following the notice provisions in V-F.

XI. ORDER OF BUSINESS. The order of business for all council meetings shall be:

A. Call to order.
B. Call of roll.
C. Approval of minutes.
D. Public forum and correspondence.
E. Consent agenda.
F. Public hearings (when scheduled).
G. Acknowledgement of receipt of board/commission minutes (if any).
H. Board/commission/committee reports (if any).
I. Staff reports (if any).
J. New business.
K. Unfinished business.
L. Consideration of bills.
M. Adjournment.

XII. AGENDA. An agenda will be prepared for all regular council meetings by the city clerk/administrator. Agenda items may be placed by city councilmembers and city staff. Members of the public wishing to place items on the agenda shall be directed to the public comment forum provided at the council meeting. When a special meeting is called, the agenda must be included in the request for the meeting and in the publication of the notice of the meeting pursuant to Minn. Stat. § 13D.04, subd. 2.

A. All requests to place an item on the agenda must be received by the city clerk/administrator by _____ a.m. _____ days prior to the next council meeting.
B. All requests to place an item on the agenda must be on the form prescribed by the city. The form should be completed with the goal of clearly describing the subject matter to be considered by council and any action requested or required. Supporting information may be attached to the form as necessary.
C. All requests to place an item on the agenda by city staff must be reviewed by the city administrator/clerk.
D. The agenda, along with information materials, will be mailed or delivered to all city councilmembers and the city attorney at least _____ days prior to the next council meeting.

XIII. CONSENT AGENDA. A consent agenda may be used to improve the efficiency of meetings. The consent agenda allows council to consider several items at one time. Only one motion is necessary to approve all items on the consent agenda.

A. Items that require findings of fact or an explanation of council actions, such as land use matters and the consideration of license requests, should generally not be placed on the consent agenda.

B. An item on the consent agenda may be removed from consideration by the request of any one councilmember. Items removed from the consent agenda will be placed on the regular agenda for discussion and consideration.

XIV. MINUTES. Minutes constitute a vital record of the city and are the best means of preserving city council intent, findings of fact, and action. Pursuant to Minn. Stat. § 412.151, the city clerk must keep a minute book.

A. The minutes shall contain at minimum:

1. The city councilmembers who are present.
2. Type of meeting (regular, special, continued, emergency).
3. Date and place the meeting was held.
4. Time the meeting was called to order.
5. Approval of minutes of the previous meeting, with any corrections.
6. The members who make or second motions.
7. Roll call vote on motions.
8. Subject matter of proposed resolutions or ordinances.
9. Whether the resolutions or ordinances are defeated or adopted.
10. The votes of each member, including the mayor.
11. A statement of findings of facts and an explanation of council action, including specific reasons for approval and disapproval, on all land use and licensing matters.
12. Listing of all bills allowed or approved for payment, noting the recipient, purpose, and amount.
13. Approval of hourly rates paid for services provided, mileage rates, meal-reimbursement amounts, and per diem amounts.
14. List of all transfers of funds.

15. Authorizations and directions to invest excess funds, and information on investment redemptions and maturities.

16. Approval of minutes of the previous meeting, with any corrections.

17. Identity of parties to whom contracts were awarded.

18. Abstentions from voting due to a conflict, and the member's name and reason for abstention.

19. Appointments of representatives to committees or outside organizations.

20. Name and brief summary of subject matter of citizens appearing before council during public comment period.

B. The minutes of each meeting shall be typed and signed by the clerk/administrator. Copies of the minutes shall be included in the agenda for the next council meeting.

C. At the next regular meeting, approval of the previous meeting's minutes shall be considered by council.

1. The meeting minutes do not need to be read aloud.
2. The presiding officer shall call for any additions or corrections.
3. If there is no objection to an addition or correction, it will be made without a vote of the council.
4. If there is an objection, the council shall vote upon the addition or correction by roll call vote.
5. Council shall take formal action by vote to approve the minutes as distributed or as amended.

D. Minutes shall be published as required by Minn. Stat. §§ 412.191, 331A.08, subd. 3, 331A.01, subd 10.

XV. PUBLIC COMMENT AT COUNCIL MEETINGS AND AT PUBLIC HEARINGS

A. ***Public participation and comment at council meetings.*** City council meetings are the forum for the city council to conduct the city's business. While city council meetings are open to the public pursuant to the Minnesota Open Meeting Law, they are not a forum for public expression. As such, members of the public are not allowed to participate in council discussion and debate without a specific invitation and/or formal recognition by the presiding officer. Members of the public shall not applaud, engage in conversation, or engage in other behavior through words or action that may disrupt the proceedings of council.

B. ***Members of the public shall follow the direction of the presiding officer.*** Members of the public who do not follow the direction of the presiding officer will be warned that further disruptive conduct will result in removal from the meeting. After warning, if the conduct continues, the presiding officer may ask the member of the public to leave the meeting room.

If the member of the public refuses to follow the direction of the presiding officer, the presiding officer may direct the sergeant-at-arms to remove the person through any lawful means. In emergency situations, or where conduct is an egregious threat to the safety of the public or the council, a warning is not necessary before the sergeant-at-arms is directed to remove the person.

C. ***Public comment period.*** A limited forum for members of the public to speak with the council is provided on the agenda. Public comments during the public comment period are subject to these limitations:

1. Speakers must be recognized by the presiding officer before speaking and are limited to three minutes for comment.
2. When multiple speakers appear to speak on the same topic, comments should not be repetitive. The presiding officer may request speakers to appoint a spokesperson.
3. The presiding officer may place a time limit on the public comment period if necessary to allow for the conduct of city business. If there is not sufficient time at the meeting to hear all public comments, the comment period may be deferred to the next regular council meeting or at a continued meeting.
4. Speakers must sign up prior to speaking and provide a name, address, and brief summary of the subject matter they wish to address. The sign-up sheet will be available at the start of the city council meeting.
5. Speakers must direct their remarks toward the presiding officer.
6. Speakers shall not use obscene, profane or threatening language, nor conduct themselves in a threatening, loud, or boisterous manner that disrupts the conduct of the meeting or the security of the public.
7. Speakers are required to follow the direction of the presiding officer.
8. Speakers who do not follow the direction of the presiding officer will be warned that further disruptive conduct will result in removal from the meeting. After warning, if the conduct continues the presiding officer may ask the speaker to leave. If the speaker refuses to follow the direction of the presiding officer, the presiding officer may direct the sergeant-at-arms to remove the speaker through any lawful means. In emergency situations, or when conduct is an egregious threat to the safety of the public or the council, a warning is not necessary before the sergeant-at-arms is directed to remove the speaker.
9. Council will generally not respond at the same meeting where an issue is initially raised by a member of the public. Generally the matter will be

referred to staff for further research and possible report or action at a future council meeting.

D. A summary of these rules for public comment may be provided in the council meeting room.

XVI. ***PUBLIC HEARINGS.*** Public hearings are sometimes required by law to allow the public to offer input on city council decisions. When public hearings are required by law, notice shall be provided as required by state statute. Public hearings shall be commenced at the time advertised in any notice required by law.

A. ***General procedure for public hearings.*** The order of business for all public hearings conducted by council shall be:

1. Opening comments by presiding officer announcing the purpose of the public hearing.

2. Presiding officer opens the public hearing portion of the meeting.

3. Staff presentation (including clerk/administrator, attorney, engineering reports if any).

4. Developer/other presentation (if any).

5. Public comments.

6. Reading of written comments.

7. Presiding officer formally closes the public hearing portion of the meeting.

B. Speakers who wish to address the city council at a public hearing must follow the same rules in XV. However, the presiding officer may allow additional time for speakers, as required, to comply with applicable state law.

C. Speakers may also provide written comments to the city council before or at the meeting. Written comments shall be read aloud by the presiding officer or his or her designee as provided in XVI-A-6. Anonymous, unsigned communications will not be read.

D. The presiding officer may continue the hearing, if necessary, following the procedures in V-F.

XVII. ***PROCEDURE FOR RESOLUTION AND ORDINANCE ADOPTION.*** All resolutions and ordinances shall be in writing. Unless otherwise provided by law, all ordinances shall be adopted by resolution by a majority vote of councilmembers present at the council meeting. Unless otherwise provided by law, ordinances do not require multiple readings, and may be adopted as presented at the first available meeting.

XVIII. BOARD, COMMISSION, AND COMMITTEE ASSIGNMENTS. All assignments of councilmembers to serve on city boards, commissions, and committees shall be by a majority vote of councilmembers present at the meeting, unless otherwise provided by law.

XIX. ***MAYORAL AND CITY PROCLAMATIONS.*** Except as otherwise provided by law, all mayoral and city proclamations recognizing events, persons, and official observances shall be adopted by a majority of councilmembers present at the meeting where such proclamation is presented for adoption.

XX. SEATING ASSIGNMENTS. Councilmembers shall occupy the chairs assigned to them by the presiding officer, but two councilmembers may exchange seats by joining in a formal request to the presiding officer.

XXI. SUSPENSION OR AMENDMENT OF THESE RULES. Any or all of these rules may be temporarily suspended by a majority vote of the councilmembers present at the meeting, except as otherwise required by Minnesota law. These rules shall not be repealed or amended except by a majority vote of the whole council after notice has been given at a preceding council meeting.

Agenda Request Form

Sample for use with Minnesota Mayors Association *City Council Bylaws*

Agenda Request Form

DATE SUBMITTED:

SUBMITTED BY:

DEPARTMENT:

ISSUE:

ATTACHMENTS:

JUSTIFICATION:

FINANCIAL IMPACT:

ACTION REQUESTED:

REVIEWED BY: ___City Clerk/Admin. ____City Attorney ___Bldg. Insp.
___Finance Director ____Public Works ___County
____City Engineer ____Architect ____DNR

CITY CLERK/ADMINISTRATOR'S RECOMMENDATION:

LANGUAGE FOR PROPOSED FORMAL MOTION TO BE CONSIDERED BY COUNCIL:

Summary Rules for Public Comment

Sample for Use with Minnesota Mayors Association *City Council Bylaws*

City Council Members

Mayor:

_____

Council:

_____

_____

_____

City Staff:

Clerk/Administrator:

_____

City Attorney:

_____

Public Works Director:

_____

Police Chief:

_____

Fire Chief:

_____

Zoning Administrator:

_____

Meeting Dates & Times:_____

_____

WELCOME to this meeting of your City Council. Please take a moment to read our guidelines for public participation in council meetings.

Agenda: An agenda packet is available for public inspection at the entrance to the meeting room. Ordinarily the council will address items as they appear on the agenda.

Council procedure: The council has adopted rules of procedure for all meetings. The rules are available for public inspection at the entrance to the meeting room. In order to take official action on items, the council will pass a motion by voice vote. Generally a simple majority vote of the members present is needed to pass most motions.

Public participation in meetings: Comments from the public are restricted to the public forum period.

City Council meetings are the forum for the City Council to conduct the city's business. While City Council meetings are open to the public pursuant to the Minnesota Open Meeting Law, they are not a forum for public expression.

Members of the public are not allowed to participate in council discussion and debate without a specific invitation by the presiding officer.

Members of the public shall not applaud, engage in conversation, or engage in other behavior through words or actions that may disrupt the proceedings of council.

During the public forum period, citizens must:

- Sign up prior to speaking and provide a name, address, and brief summary of the subject matter they wish to address. The sign-up sheet is available at the meeting entrance.
- Be recognized by the presiding officer before speaking. Comments are limited to three minutes.
- Direct their remarks to the presiding officer.
- Follow the direction of the presiding officer.

During forum period, the public is prohibited from:

The use of obscene, profane, or threatening language.

Threatening, loud, or boisterous conduct that disrupts the meeting or the security of the public.

Members of the public who do not follow the direction of the presiding officer will be warned that further disruptive conduct will result in removal from the meeting. If the conduct continues, the presiding officer may ask the speaker to leave. If the speaker refuses to follow the direction of the presiding officer, the presiding officer may direct the sergeant-at-arms to remove the speaker through any lawful means.

The presiding officer may:

- Request the public to appoint a spokesperson when multiple speakers appear to speak on the same topic.
- Place a time limit on or defer the public comment period.
- Alter rules to meet legal requirements for public hearings required by law.

Council agenda/order of business:

1. Call to order.
2. Call of roll.
3. Approval of minutes.
4. Public forum & correspondence.
5. Consent agenda.
6. Public hearings (when scheduled)
7. Board, commission, & committee minutes
8. Board, commission, & committee reports
9. Staff reports
10. New business
11. Unfinished business
12. Consideration of bills
13. Adjournment

Contact information for City Hall:_____

_____

_____

Hours of operation:

_____

_____

Appendix B

Minnesota Mayors Association

Rules of Order for City Councils

Preamble.

a. ***Purpose.*** The purpose of these rules is to foster debate and discussion in an orderly manner, not to suppress honest discussion with excessive formality. Without rules, confusion and disorderly proceedings would hamper all city action, no matter how well intended. Rules allow city business to be conducted as efficiently as possible, protect minority groups by giving every person a chance to be heard, prevent discussion of multiple topics at once, and allow decisions to be made by majority rule.

b. ***Rights of councilmembers.*** All councilmembers are equal and have the same rights to make motions; object to motions in a timely manner; participate in debate; have their votes counted; and speak, when recognized, free of interruption.

c. ***Obligations of councilmembers.*** The rights of individual councilmembers cannot be realized unless all councilmembers also recognize their obligations as members of the political body. Councilmembers are obligated to receive the recognition of the chair before speaking, except as otherwise provided by these rules. No one has the right to speak at whim. Councilmembers are obligated to speak directly on the subject being considered and observe time limits for comment. Finally, councilmembers are obligated to address all remarks to the presiding officer, avoid personal attacks, and refrain from using any insulting or demeaning language or indecent or threatening behavior.

Rule 1. Motions.

All formal actions of council must be by motion. A councilmember may make only one motion at a time.

Rule 2. Language for making a motion.

The appropriate language for making a motion shall be substantially similar to *" I move to _____."*

Rule 3. Procedure for consideration of a motion.

A motion does not need to be seconded. Once a motion has been made, the presiding officer shall restate the motion and (if applicable) open the motion up for debate, provided that the mayor determines that the motion is in order and no objections to the motion have been made pursuant to Rule 4. A motion is in order if it is made at a proper time in the proper format and does not violate any applicable rules of law, ordinance, or city policy, including city policies on decorum and civility, and is not made for the purpose of unduly delaying the proceedings. Debate shall follow the procedures in Rule 5. Once debate has concluded, the presiding officer shall restate the motion and call for a vote on the issue. A motion shall be considered passed if it receives a majority vote of those present at the meeting, unless otherwise required by law.

Rule 4. Objections to a motion.

a. Any member of the council may make an objection to a motion if he or she believes the motion is not in order. A motion is in order if it is made at a proper time in the proper format and does not violate any applicable rules of law, ordinance, or city policy, including city policies on decorum and civility, and is not made for the purpose of unduly delaying the proceedings.

b. An objection to a motion must be made immediately following the motion and at no other time. The objector does not need to be recognized by the presiding officer in order to voice their objection. The appropriate language for making an objection shall be substantially similar to "I object to the motion as being out of order, and call for a ruling by the presiding officer."

c. A motion may be objected to as not being made at a proper time if the motion was made by a person not called upon by the presiding officer to speak, or if it does not follow the agreed upon agenda for the meeting.

d. The presiding officer shall determine whether the motion is in order.

e. In determining whether the motion is in order, the presiding officer shall let the objector to the motion speak once explaining his or her position. Next, the presiding officer shall let the maker of the motion speak once to answer the concerns of the objector. Then the presiding officer shall make a formal ruling as to whether the motion was in order.

f. If the motion is ruled out of order, the motion shall not be considered. If the motion is ruled in order, the presiding officer shall open the motion for debate (if applicable).

g. The presiding officer's ruling may be appealed as provided in Rule 7.

Rule 5. Debate.

Generally only one motion may be considered at a time in debate. Once a motion has been made, the presiding officer shall restate the motion and open the motion for debate, if the motion is debatable. The presiding officer shall conduct the debate in accordance with the following:

a. For initial comments, all comments shall be limited to five minutes. For subsequent comments, all comments shall be limited to two minutes.

b. The maker of the motion shall be permitted to speak first on the issue.

c. To the extent possible, the debate shall alternate between proponents and opponents of the measure.

d. Everyone who wishes to speak on the issue must be permitted to speak once, before councilmembers who have already spoken are permitted to speak again.

e. Councilmembers shall avoid repeating points already made in the debate or other duplicative conduct that may delay the proceedings. Where a point has already been made, councilmembers may affirm agreement or disagreement.

f. Generally only one motion may be considered at a time in debate. Debate may only be interrupted by a motion to amend the original motion, a motion to take a brief recess, a motion to withdraw the motion by the motion's maker, a motion to divide a complex question, a motion to defer consideration to a later date, a motion to refer an issue to committee, motion for the previous question, a motion to limit debate, or a motion for a call to order. When debate is interrupted by any of these motions, the interrupting motion shall be resolved prior to resuming debate.

Rule 6. Definitions of motions that may interrupt debate (secondary motions).

As explained in Rule 5, only certain motions may interrupt debate on a motion. These are called secondary motions. When a secondary motion is made, the presiding officer must follow the same procedures in Rule 3 to consider the secondary motion. A secondary motion must be resolved, either by being ruled out of order by the presiding officer or debated and voted upon by the council, before debate on the main motion can resume. Secondary motions may also be made outside of debate, where appropriate. For example, a motion to take a brief recess can be made before, during, or after a debate.

a. ***Motion to amend the original motion.*** The maker of the motion does not need to consent to a motion to amend. However, he or she may vote against the amendment or withdraw their motion via a motion to withdraw prior to any amendment being approved. Only two amendments may be made to an original motion to avoid confusion. The amendments should be voted on in reverse order, with the last amendment being voted upon first. To avoid confusion, complex language should be put in writing. A motion may not be amended so substantially as to essentially reject the original motion, though different language may be proposed so as to entirely substitute for the original language.

   The appropriate language for making a motion to amend shall be substantially similar to "I move to amend the motion by inserting between . . . . and . . . ." or "I move to amend the motion by adding after . . ." or "I move to amend the motion by striking out . . ." or "I move to amend the motion by striking out . . . and inserting . . ." or "I move to amend by striking out the motion . . . and substituting the following."

b. ***Motion to take a brief recess*** is not a motion to adjourn or continue the meeting to another time or place. Instead, it is a motion to take a brief respite no greater than 20 minutes. If a motion to take a brief recess is granted, the presiding officer may set a time for the meeting to resume. In addition, the presiding officer is authorized to call for a brief recess on his or her own initiative, without a vote, to maintain order in the meeting.

   The appropriate language for making a motion to recess shall be substantially similar to "I move to take a brief recess for _____ minutes."

c. ***Motion to withdraw a motion*** is not subject to debate, and it can only be made by the motion's maker before a motion is amended.

   The appropriate language for making a motion to withdraw shall be substantially similar to "I move to withdraw my motion."

d. ***Motion to divide a complex question*** may be used for complex items of business. It allows the council to break larger questions into smaller parts, which are considered separately.

The appropriate language for making a motion to divide a complex question shall be substantially similar to "I move to divide the question into _____ parts. Part 1 shall be _____. Part 2 shall be _____.

e. ***Motion to table or defer consideration to a later date*** is not subject to debate. It may be used to defer or delay consideration of a matter.

The appropriate language for making a motion to defer consideration shall be substantially similar to "I move to defer consideration of the main motion/this item until _____."

f. ***Motion to refer an issue to committee*** is not subject to debate. It may be used to refer an issue to a city committee, such as the park board or planning commission, for their report. The motion should contain an expected receipt day for the report.

The appropriate language for making a motion to refer an issue shall be substantially similar to "I move to refer the main motion/this issue to the _____ committee for its consideration and recommendation. The committee should report back to the council in ___ days/weeks."

g. ***Motion for call of the previous question*** is not subject to debate. It may be used only after at least 20 minutes of debate on a single motion or when all members of the council have been permitted to speak at least once on the motion. If approved by the majority, a vote must be taken on the motion under debate immediately.

The appropriate language for making a motion to call the previous question shall be substantially similar to "I move to call the previous question" or "I move for an immediate vote on this issue."

h. ***Motion to limit debate*** is not subject to debate. It may be used to establish time limits for debate.

The appropriate language for making a motion to limit debate shall be substantially similar to "I move to limit debate on this issue to __ minutes per person" or "I move to limit council debate on this issue to no more than ___ minutes total."

i. ***Motion for a call to order*** is not subject to debate. It may be used to signal to the presiding officer that the councilmember feels the proceedings have gotten disorderly.

The appropriate language for making a motion for a call to order shall be substantially similar to "I move for a call to order by the presiding officer."

NOTE: Most secondary motions should not literally interrupt debate. They may not be made in the midst of the comments of a speaker duly recognized by the presiding officer, or silence the speaker's speech. To make a secondary motion, the maker must be called upon and recognized by the presiding officer. There

are two exceptions to this rule—a motion for a call of the previous question and a motion for a call to order. These motions may be made at any time—even in a manner that interrupts a speaker. However, these motions should be made only in the rare instance where a meeting has become out of control, strayed from the agenda, or become disorderly.

Rule 7. Appealing procedural decisions of the presiding officer.

a. Any member of the council may appeal to the full council a ruling on order or procedure made by the presiding officer.
b. ***Procedure for appeals.*** An appeal is made by motion. No second is needed for the motion. The member making the motion may speak once solely on the question involved, and the presiding officer may speak once solely to explain his or her ruling, but no other councilmember may participate in the discussion.
c. Once both the maker of the motion and the presiding officer have spoken, the matter must be voted upon by the council as a whole.
d. The appeal shall be sustained if it is approved by a majority of the members present, exclusive of the presiding officer.

Rule 8. Other special motions explained.

a. ***Motion to adjourn*** is not subject to debate. It may be used to suggest a conclusion to the meeting. The presiding officer may adjourn a meeting on his or her own initiative, without a vote, if necessary to maintain order.

   The appropriate language for making a motion to adjourn shall be substantially similar to "I move to adjourn the meeting."

b. ***Motion to go into closed session*** may be used to close the meeting pursuant to the Minnesota Open Meeting Law. When the motion is made, the basis for closing the meeting and the applicable law must be stated into the record. The presiding officer may also close the meeting on his or her own initiative, without a council vote, if closing the meeting is mandatory under the law or if directed by the city attorney.

   The appropriate language for making a motion to go into closed session shall be substantially similar to "I move to close the meeting in order to consider _____ pursuant to _____ of the Minnesota Open Meeting Law."

c. ***Motion to leave a closed session*** may be used to conclude a closed session and return to an open meeting.

   The appropriate language for making a motion to leave a closed session shall be substantially similar to "I move to open the meeting."

d. ***Motion to revive consideration of an issue*** may be used to request consideration of an issue previously tabled, deferred, or referred to committee at any prior meeting.

The appropriate language for making a motion to revive shall be substantially similar to "I move to revive consideration of _____ previously tabled/deferred/referred to committee."

e. ***Motion to reconsider*** may be made only at the ***same*** meeting where the issue was originally considered and voted upon. It may be made only by a person on the prevailing side of an issue. In the event of a tie vote, those voting against the issue shall be considered the prevailing side.

The appropriate language for making a motion to reconsider shall be substantially similar to "I move to reconsider _____."

f. ***Motion to rescind or repeal*** may be made at any meeting following the meeting where the issue was originally considered and voted upon. It may be made by any councilmember, whether or not he or she was on the prevailing side. It may not be made when prevented by law or where substantial reliance on the council's previous decision has occurred (for example, in the area of contracts or hiring/termination of employees).

The appropriate language for making a motion to reconsider shall be substantially similar to "I move to rescind/repeal the council's previous action related to _____ as stated in resolution number _____."

g. ***Motion to prevent reintroduction of an issue for ____ months*** is not subject to debate. It may be used to limit discussion of an issue that has been raised and/or moved for reconsideration several previous times.

The appropriate language for making a motion to prevent reintroduction shall be substantially similar to "I move to prevent reintroduction of this issue for _____ months."

h. ***Motion to suspend the rules or to consider a motion informally*** should be used sparingly on issues likely to be uncontroversial. Complex motions and resolutions should still be put in writing. This motion may permit informal discussion of an issue (such as a roundtable discussion, brainstorming session, visioning session, etc.) where appropriate.

The appropriate language for making a motion to proceed informally shall be substantially similar to "I move that we suspend the rules and proceed informally in discussing the issue of _____."

Rule 9. Resolutions and ordinances.

Simple motions shall be used only for procedural and meeting matters. Substantive issues, such as the approval or disapproval of contracts, licenses, or permits; the censure of councilmembers; the hiring, termination, or promotion of employees; the appointment of board, commission, and committee members; and the adoption of city policies, rules, and ordinances shall be by resolution. An exception to this general rule may be made in instances where significant documentation of the council's decision exists, rendering an additional resolution repetitive (for example, where a written contract spells out all the terms that

would be listed in the resolution). All resolutions shall be written and numbered in a manner consistent with the city's record keeping policies.

> *The appropriate language for a motion for the adoption of a resolution shall be substantially similar to "I move to adopt the resolution numbered ____."*

Rule 10. Robert's Rules not applicable.

These model rules are designed specifically for Minnesota city councils. Further, these rules were drafted to be an appropriate level of regulation and formality for smaller governing bodies typically seen in Minnesota cities. Robert's Rules of Order is not assumed to apply or to supplement these regulations. Where a situation arises that is not addressed by these rules, the intent of these rules, as expressed in the preamble, should be effectuated by the presiding officer, in consultation with the city attorney.

Summary of Motions

For use with Minnesota Mayors Association *Rules of Order for City Councils*

Means a motion is not subject to debate.

Means that motion may be made during active debate on a main motion.

Means a motion can be made without recognition from the presiding officer or that it can interrupt other speakers.

1. ***General motion for all council action:***

   "I move to _____"

2. ***Motion to amend the original motion.*** The maker of the motion does not need to consent to a motion to amend. Only two amendments may be made to an original motion to avoid confusion.

   "I move to amend the motion by inserting between . . . . and . . . ." or "I move to amend the motion by adding after . . ." or "I move to amend the motion by striking out . . ." or "I move to amend the motion by striking out . . . and inserting . . ." or "I move to amend by striking out the motion . . . and substituting the following."

3. ***Motion to take a brief recess.*** A motion to take a brief respite no greater than 20 minutes.

   "I move to take a brief recess for _____ minutes."

4. ***Motion to withdraw a motion.*** This can only be made by the motion's maker before a motion is amended.

   "I move to withdraw my motion."

5. ***Motion to divide a complex question.*** This allows questions to be considered in smaller parts.

   "I move to divide the question into _____ parts. Part 1 shall be _____. Part 2 shall be _____."

6. ***Motion to table or defer consideration to a later date.*** This may be used to defer consideration.

   "I move to defer consideration of the main motion/this item until _____."

7. ***Motion to refer an issue to committee.*** This may be used to refer an issue to a city committee.

   "I move to refer the main motion/this issue to the _____ committee for its consideration and recommendation. The committee should report back to the council in ___ days/weeks."

8. ***Motion for call of the previous question.*** This may only be used after at least 20 minutes of debate on a single motion or when all members of the council have been permitted to speak at least once on the motion. If approved by the majority, a vote must be taken on the motion under debate immediately.

   "I move to call the previous question" or "I move for an immediate vote on this issue."

9. ***Motion to limit debate.*** This may be used to establish time limits for debate.

"I move to limit debate on this issue to __ minutes per person" or "I move to limit council debate on this issue to no more than ___ minutes total."

10. ***Motion for a call to order.*** This is used to signal to the presiding officer that the meeting is disorderly.

"I move for a call to order by the presiding officer."

11. ***Motion to adjourn.*** This may be used to suggest a conclusion to the meeting.

"I move to adjourn the meeting."

12. ***Motion to go into closed session.*** This may be used to close the meeting pursuant to the Minnesota Open Meeting Law. **The basis for closing the meeting and the applicable law must be stated into the record.**

"I move to close the meeting in order to consider _____ pursuant to _____ of the Minnesota Open Meeting Law."

13. ***Motion to leave a closed session.*** This may be used to conclude a closed session and return to an open meeting.

"I move to open the meeting."

14. ***Motion to revive consideration of an issue.*** This may be used to request consideration of an issue previously tabled, deferred, or referred to committee at any prior meeting.

"I move to revive consideration of _____ previously tabled/deferred/referred to committee."

15. ***Motion to reconsider.*** This may be made only at the ***same*** meeting where the issue was originally considered and voted upon.

"I move to reconsider _____."

16. ***Motion to rescind or repeal.*** This may be made at any meeting following the meeting where the issue was originally considered and voted upon.

"*I move to rescind/repeal the council's previous action related to _____ as stated in resolution number _____."*

17. ***Motion to prevent reintroduction of an issue for ____ months.*** This may be used to limit discussion.

"I move to prevent reintroduction of this issue for _____ months."

18. ***Motion to suspend the rules or to consider a motion informally.*** This permits informal discussion.

"I move that we suspend the rules and proceed informally in discussing the issue of _____."

Principles for Making Meetings Work

- Council Handout -

For use with Minnesota Mayors Association *Rules of Order for City Councils*

Simple Principles for Making Meetings Work

1. Let the presiding officer manage the meeting.
2. Wait to be recognized by the presiding officer before speaking.
3. Be courteous and civil. Limit debate to the discussion of ideas. Do not make personal attacks.
4. Maintain decorum in the chambers. Do not have side conversations or disrupt the meeting through words or conduct.

Problem Solving Hints

Council Handout

For use with Minnesota Mayors Association *Rules of Order for City Councils*

Problem one: Meetings are taking too long.

Potential solutions:

a. The presiding officer should follow the agenda and limit discussion and debate to the current agenda item. Councilmembers who speak on topics not related to the current agenda can be called to order by the presiding officer.

b. The presiding officer should not open discussion and debate on an agenda item until after an actual motion for action has been made. This clarifies the discussion and makes the process more efficient. A line can be added to the council agenda for each item with staff's proposed motion language.

c. The presiding officer should utilize the time limits established in Rule 5a. When individual councilmembers notice that the time limits are not being observed, they can make a motion to have the presiding officer call for order.

d. When debate appears to be lengthy but unproductive, councilmembers can make a motion to limit the time for debate. Sometimes setting a deadline for making a decision can be helpful.

e. When debate has continued for at least 20 minutes or everyone on council has had an opportunity to speak, a councilmember may make a motion to "call the question." If approved, the main motion must be voted upon instantly.

Problem two: The minute taker and/or councilmembers are confused about what has been approved or disapproved.

Potential solutions:

a. All council action should be stated in a motion and voted upon. Even when the council has agreed by motion to discuss things informally, all decisions should be ratified in a formal motion that is put to a vote.

b. Complex motions and their amendments can be put in writing. Resolutions should always be numbered, in writing, and adopted by a simple motion, "I move to adopt resolution number ____."

c. The presiding officer should state the motion being considered prior to opening debate and prior to voting. Once a vote has occurred, the presiding officer should state whether the motion carried or failed.

d. Only one motion for council action may be considered at a time.

e. Amendments to motions are limited to two amendments. These amendments should also be stated by the presiding officer prior to opening debate and voting.

f. In making amendments, the proponent of an amendment should use concise language—preferably the model language identified in the rules, including:

"I move to amend the motion by inserting between . . . . and . . . . "; or
"I move to amend the motion by adding after . . . "; or
"I move to amend the motion by striking out . . . "; or
"I move to amend the motion by striking out . . . and inserting . . . "; or
"I move to amend by striking out the motion . . . and substituting the following."

Problem three. One particular member of council disrupts the proceedings, and insults and verbally attacks other councilmembers.

Potential solutions:

a. No person, including a councilmember, has the right to disrupt the council's proceedings through fighting, threatening physical harm, or engaging in offensive, noisy, obscene or abusive conduct. *This is a crime pursuant to Minn. Stat. § 609.72.* Aggressive, threatening conduct cannot be tolerated. The presiding officer should follow the council's adopted bylaws to issue warnings when such conduct occurs and then order removal of the person by the sergeant-at-arms.

b. The presiding officer can remind the councilmember that the rules require all remarks to be addressed to the presiding officer alone. If the conduct persists, the presiding officer can rule the person out of order and follow the council's procedures for discipline through censure and/or temporary removal from the meeting.

c. The presiding officer can remind the councilmember that the rules require time limits on comments. If the conduct persists, the presiding officer can rule the person out of order and follow the council's procedures for discipline through censure and/or temporary removal from the meeting.

d. Members of the council may request action by the presiding officer to curb another member's conduct through a motion for a call to order. The motion may request a specific response to conduct by the presiding officer. For example, "I make a motion for the presiding officer to call Councilmember _____ to order and to desist from making personal attacks."

e. Members of the council may make a motion for adjournment or for a brief recess, if a councilmember's actions are so offensive as to disrupt the orderly process of the meeting.

Problem four: Council keeps revisiting the same issue over and over again. It's a waste of time, but one member can't help but bring up their "pet" project at every meeting—even though the council has voted the idea down several times.

Potential solutions:

a. The presiding officer can rule out of order motions to reconsider or rescind council actions if they are not made at the appropriate time by the appropriate person, or where reliance on the council's previous decision has occurred (for example, in the area of contracts or hiring/termination of employees).

b. A councilmember may make a motion to limit debate.

c. A councilmember may make a motion to table or defer the matter.

d. A councilmember may make a motion to refer the matter to a committee.

e. A councilmember may make a motion to delay consideration of the matter for a specified amount of time. Six months is recommended.

Problem five: The councilmembers can't agree on anything, or are so deeply divided over one particular controversial issue that it has affected civil discussion on all matters.

Potential solutions:

a. The presiding officer should insist that all members of council observe council bylaws and procedural rules that speak to decorum. In particular, the presiding officer can remind councilmembers that the rules require all remarks to be addressed to the presiding officer alone. Rules should be enforced in a neutral manner applicable to everyone.

b. The city council may wish to consider that application of rules of procedure alone may not solve the problem. Where divisions among council are particularly fractious, a skilled facilitator may need to be brought in to help council place their divisions in an appropriate perspective against the broader needs of the city.

Appendix C

Sample Statement of Values

Preamble

The proper operation of democratic government requires that decision-makers be independent, impartial, and accountable to the people they serve. The City of _____ has adopted this Statement of Values to promote and maintain the highest standards of personal and professional conduct in the city's government. All (*select:* elected and appointed officials, city employees, and volunteers) are required to subscribe to this statement, understand how it applies to their specific responsibilities, and practice its (*number*) core values in their work. Because we seek public confidence in the city's services and public trust of its decision-makers, our decisions and our work must meet the most demanding ethical standards and demonstrate the highest levels of achievement in following this statement.

The values

As a representative of the City of _____,

1. I serve the public interest.
2. I fulfill the duties and responsibilities of holding public office.
3. I am ethical.
4. I am professional.
5. I am fiscally responsible.
6. I am conscientious.
7. I communicate effectively.
8. I am collaborative.
9. I am forward thinking.
10. I am _____.

Value examples/expressions

1. **I serve the public interest. In practice, this value means that:**
   a. I provide courteous, equitable, and prompt service to everyone.
   b. I am attuned to and care about the needs and issues of citizens, public officials, and city workers.
   c. I am interested, engaged, and responsive in my interactions with constituents.
   d. I recognize and support the public's right to know the public's business.

2. **I fulfill the duties and responsibilities of holding public office. In practice, this value means that:**
   a. I observe the highest standards of integrity in my official acts and undertake my responsibilities for the benefit of the greater public good.
   b. I faithfully discharge the duties of my office regardless of my personal considerations, recognizing that the public interest is my primary concern.
   c. I uphold the Constitution of the United States and the Constitution of the state of Minnesota and carry out impartially the laws of the nation, state, and municipality and thus foster respect for all government.

d. I comply with both the letter and the spirit of the laws and policies affecting operations of the city.
e. I recognize my obligation to implement the adopted goals and objectives of the city in good faith, regardless of my personal views.
f. I conduct myself in both my official and personal actions in a manner that is above reproach.
g. I do not use my position to secure for myself or others special privileges or exemptions that are different from those available to the general public.
h. I understand and abide by the respective roles and responsibilities of elected and appointed officials and city staff and will not undermine them in their work.
i. I am independent, impartial, and fair in my judgment and actions.

3. **I am ethical**. **In practice, this value means that:**
   a. I am trustworthy, acting with the utmost integrity and moral courage.
   b. I am truthful, do what I say I will do, and am reliable.
   c. I am accountable for my actions and behavior and accept responsibility for my decisions.
   d. I make impartial decisions, free of influence from unlawful gifts, narrow political interests, and financial and other personal interests that impair my independence of judgment or action.
   e. I am fair, distributing benefits and burdens according to consistent and equitable criteria.
   f. I oppose all forms of harassment and unlawful discrimination.
   g. I extend equal opportunities and due process to all parties in matters under consideration.
   h. I show respect for confidences and confidential information.
   i. I avoid giving the appearance of impropriety and of using my position for personal gain.

4. **I am professional. In practice, this value means that:**
   a. I apply my knowledge and expertise to my assigned activities and to the interpersonal relationships that are part of my job in a consistent, confident, competent, and productive manner.
   b. I approach my job and work-related relationships with a positive attitude, contributing to a supportive, respectful, and non-threatening work environment.
   c. I keep my professional knowledge and skills current and growing.
   d. I am respectful of all city staff, officials, volunteers, and others who participate in the city's government.

5. **I am fiscally responsible. In practice, this value means that:**
   a. I make decisions after prudent consideration of their financial impact, taking into account the long-term financial needs of the city, especially its financial stability.
   b. I demonstrate concern for the proper use of city assets (e.g., personnel, time, property, equipment, funds), follow established procedures, and do not use public resources for personal gain.
   c. I make decisions that seek to preserve the financial capacity of the city to provide programs and services for city residents.
   d. I provide full disclosure of any potential financial or other private conflict of interest. I abstain from participating in the discussion and vote on these matters.
   e. I prevent misuse of public funds by establishing, maintaining, and following strong fiscal and management controls.
   f. I report any misuse of public funds of which I am aware.

6. **I am conscientious. In practice, this value means that:**
   a. I act in an efficient manner, making decisions and recommendations based upon research and facts, taking into consideration short- and long-term goals.
   b. I follow through in a responsible way, keeping others informed, and responding in a timely fashion.

c. I am respectful of established city processes and guidelines.
d. I prioritize my duties so that the work of the city may move forward.
e. I prepare for all meetings by reviewing any materials provided ahead of time. When I have materials to contribute, I make sure all others involved have ample time to review these materials prior to the meeting.

7. **I communicative effectively. In practice, this value means that:**
   a. I convey the city's care for and commitment to its citizens.
   b. I communicate in various ways that I am approachable, open-minded, and willing to participate in dialogue.
   c. I engage in effective two-way communication by listening carefully, asking questions, and responding appropriately, which adds value to conversations.
   d. I do not interfere with the orderly conduct of meetings by interrupting others or making personal comments not germane to the business at hand.
   e. I follow up on inquiries in a timely manner.
   f. I encourage and facilitate citizen involvement in policy decision-making.
   g. I am respectful in disagreements and contribute constructively to discussions on the issue.

8. **I am collaborative. In practice, this value means that:**
   a. I act in a cooperative manner with groups and other individuals, working together in a spirit of tolerance and understanding to accomplish common goals.
   b. I share information with others in a timely manner so that, together, we can make informed decisions.
   c. I work toward consensus building and gain value from diverse opinions.
   d. I accomplish the goals and responsibilities of my individual position, while respecting my role as a member of a team.

9. **I am forward thinking. In practice, this value means that:**
   a. I promote intelligent, proactive, and thoughtful innovation in order to advance the city's policy agenda and provide city services while considering the broader regional, statewide, national, and international implications of the city's decisions and issues.
   b. I maintain consistent standards, but am also sensitive to the need for compromise, creative problem solving, and making improvements when appropriate.
   c. I am open to new ideas and processes, adopting them as they conserve resources and provide efficient and effective service.
   d. I consider the potential long-term consequences and implications of my actions and inactions.

Appendix D

Sample Code of Conduct

___.01. Purpose.

The City Council of the City of _____ determines that a code of conduct for its members, as well as the members of the various boards and commissions of the City of _____, is essential for the public affairs of the city. By eliminating conflicts of interest and providing standards for conduct in city matters, the City Council hopes to promote the faith and confidence of the citizens of _____ in their government and to encourage its citizens to serve on its council and commissions.

___.02. Standards of conduct.

Subd. 1. No member of the City Council or a city board or commission may knowingly:

a. Violate the Open Meeting Law.
b. Participate in a matter that affects the person's financial interests or those of a business with which the person is associated, unless the effect on the person or business is no greater than on other members of the same business classification, profession, or occupation.
c. Use the person's public position to secure special privileges or exemptions for the person or for others.
d. Use the person's public position to solicit personal gifts or favors.
e. Use the person's public position for personal gain.
f. Except as specifically permitted pursuant to Minn. Stat. 471.895, accept or receive any gift of substance, whether in the form of money, services, loan, travel, entertainment, hospitality, promise, or any other form, under circumstances in which it could be reasonably expected to influence the person, the person's performance of official action, or be intended as a reward for the person's official action.
g. Disclose to the public, or use for the person's or another person's personal gain, information that was gained by reason of the person's public position if the information was not public data or was discussed at a closed session of the City Council.
h. Disclose information that was received, discussed, or decided in conference with the city's legal counsel that is protected by the attorney-client privilege unless a majority of the City Council has authorized the disclosure.
i. Represent private interests before the City Council or any city committee, board, commission, or agency. ***(optional)***

Subd. 2. Except as prohibited by the provisions of Minn. Stat. § 471.87, there is no violation of subdivision 1 b. of this section for a matter that comes before the council, board, or commission if the member of the council, board, or commission publicly discloses the circumstances that would violate these standards and refrains from participating in the discussion and vote on the matter. Nothing herein shall be construed to prohibit a contract with a member of the City Council under the circumstances described under Minn. Stat. § 471.88, if proper statutory procedures are followed.

___.03. Complaint, hearing.

Any person may file a written complaint with the city clerk alleging a violation of the standards of conduct in section _____.02. The complaint must contain supporting facts for the allegation. The City Council may hold a hearing after receiving the written complaint or upon the council's own volition. A hearing must be held only if the City Council determines (1) upon advice of the city attorney, designee, or other attorney appointed by the council, that the factual allegations state a sufficient claim of a violation of these standards or rise to the level of a legally recognized conflict of interest, and (2) that the complaint has been lodged in good faith and not for impermissible purposes such as delay. The City Council's determination must be made within 30 days of the filing of the allegation with the city clerk. If the council determines that there is an adequate justification for holding a hearing, the hearing must be held within 30 days of the City Council's determination. At the hearing, the person accused must have the opportunity to be heard. If after the hearing, the council finds that a violation of a standard has occurred or does exist, the council may censure the person, refer the matter for criminal prosecution, request an official not to participate in a decision, or remove an appointed member of an advisory board or commission from office.