

NOTE: THIS FINAL DRAFT WILL BE DISCUSSED BY THE COMMITTEE OF THE WHOLE JUNE 21, 2004 at 5:30 PM

# COUNCIL MANUAL



## **SECTION I.**

### **CITY GOVERNMENT STRUCTURE**

#### **A. CITY COUNCIL**

The Council is the legislative body; its members are the community's decision makers. Power is centralized in the elected Council, which approves the budget and determines the tax rate, for example. The Council also focuses on the community's goals, major projects and such long-term considerations as community growth, land use development, capital improvement plans, capital financing and strategic planning. The Council hires a professional manager to carry out the administrative responsibilities and supervises the manager's performance.

The role of a Council member is similar to being a member of the Board of Directors of a large business. Council members are a part of the management team that oversees the City business operations. The Council provides a focal point, or the conscience of the community. It is not the job of Council members to become directly involved in the daily operations of the City. The City Administrator and the Department Directors are responsible for overseeing the implementation of services. The Council sets the level of services and the policies by which the City operates.

#### **B. MAYOR**

The Mayor represents the City at public and ceremonial occasions and carries out a variety of other municipal responsibilities. The Mayor chairs all meetings of the Council. The Mayor also has veto powers as established by Iowa Code. The Mayor appoints all board and commission members as provided for in Section II of these rules. The roles of these committees are detailed in Section V.

#### **C. CITY ADMINISTRATOR**

The City Administrator is the chief administrative officer for the City, and oversees the day-to-day operations of the City. He or she is responsible for implementation of all policy decisions of the City Council and the enforcement of all City ordinances. The City Administrator appoints with approval of the City Council and directly supervises the directors of the City's operating departments and the City Clerk. The City Administrator oversees the administration of all City contracts, execution of public improvements, and the construction, improvement and maintenance of all City properties and facilities. In cooperation with the City Finance Director, the City Administrator prepares the annual budget and submits it to the City Council for consideration and approval consistent with State law, and presents recommendations and programs to the City Council (see **Council Rule 36-1**). The City Clerk's Office, Technical Services and Information Technology are part of the City Administrator's Office. Information Technology is responsible for the operation and maintenance of the City's in-house on-line computer system in addition to the development of new computer applications. Technical Services is responsible for compliance with employment laws and regulations; coordinates the application process for all staff positions on behalf of the City; and maintains information on civil service position requirements, employment contracts, compensation and City employee benefits, including health insurance, vacation and sick leave.

#### **D. LEGAL**

The City Attorney is the chief legal officer of the City, representing the City and its boards, committees and commissions in legal matters. The City Attorney prepares or approves all **proposed** City ordinances, resolutions, contracts, and other legal documents. The legal department represents the City in litigation matters, advises and prepares legal opinions for departments and offices, and prosecutes violations of City ordinances. (See Attachment "A" on Principles Governing the City Attorney's Legal Advise and Services)

#### **E. CITY CLERK**

The City Clerk is charged with custody of all official bonds of City employees and with the custody of deeds, contracts and abstracts. The City Clerk is responsible for publishing, certifying and authenticating all ordinances. The Clerk publishes public notices, ordinances, resolutions and minutes as required by law and assists staff and public in researching information. The Clerk's office handles general accounts receivable billings, payment of parking tickets and issuance of City parking permits, liquor and cigarette licenses and going-out-of-business licenses. The Clerk's office provides required services for city elections and is the custodian of the City Seal.

#### **F. FINANCE DEPARTMENT**

The Finance Department is responsible for the general supervision of all City financial matters, including preparation of the City's Financial Plan (budget), centralized accounting and billing functions, payroll and purchasing. The department manages the City's investment portfolio and its risk management program. The department's staff handles accounting, purchasing and treasury.

Accounting services include the preparation of the annual financial report, working with auditors, payroll processing, accounts payable processing, and federal and state grants accounting and compliance. As City Finance Director, the director of the Financial Department is responsible for managing the City's fiscal activities and systems, direction of budget planning, and revenue collection.

#### **G. FIRE DEPARTMENT**

The Fire Department minimizes the risk of injury, loss of life and property from fire, rescue, medical emergency, hazard material incidents, or disaster. In addition to providing a timely response to emergencies, the Fire Department also promotes public safety through preventive activities such as public educational programs and code enforcement. The Fire Chief, as department director, directs and manages overall Fire Department services and activities.

#### **H. HOUSING - ZONING DEPARTMENT**

The Housing and Zoning Department is responsible for general housing issues which include housing development, assessment of housing needs, landlord/tenant responsibility issues, and the distribution of information regarding the availability of both rental and owner-occupied housing and for the administration of the HUD Section 8 Rent Assistance Program. As Administrator of the HUD Section 8 program, the housing/zoning staff accepts and reviews applications, verifies income eligibility for applicants, and enforces program regulations.

The department also administers the zoning and subdivision ordinances, the front yard parking ordinance, the rental housing inspection program, code enforcement and the legislation regarding home occupations. Housing/zoning staff provides support services for the City's Plan Zoning Commission, Board of Adjustment, Site Plan Review Board and the Enterprise Zone Commission.

The zoning officer reviews building permits for compliance with zoning laws, and reviews development proposals submitted to the City to assure compliance with city codes and the comprehensive plan.

### **I. LIBRARY**

The Library is governed by the Library Board of Trustees, a semi-autonomous body of seven persons empowered by State law and City ordinance. The Mayor, with the City Council's approval, appoints six city residents to six-year terms and one rural Marshall County resident, with the Marshall County Board of Supervisors' approval, to a six-year term. The Library Director is appointed by the Library Board of Trustees. The Library is divided into the following departments: Administrative, Technical, Circulation, Reference and Youth Services.

### **J. PARKS & RECREATION**

The primary purpose of Parks & Recreation is to provide open space and parks for the residents of Marshalltown. The Parks division is responsible for maintaining City parks, City dikes, bike trail, as well as numerous other green spaces. Park division employees also assist other departments and divisions with maintenance and construction projects.

The Recreation division is responsible for providing a variety of leisure time activities to all ages. The division is responsible for scheduling the recreational facilities such as Coliseum, Ball Diamonds, & Tennis Courts. The division oversees operation of the Aquatic Center.

Parks & Recreation is involved in the maintenance of city-owned trees. It also advises residents regarding planting trees and shrubs in street rights-of-way, and creates landscaping for city parks. In addition, the department provides general information to the public concerning city trees and landscaping.

### **K. POLICE**

The Marshalltown Police department is committed to the impartial enforcement of laws, statutes and ordinances relating to crime prevention, apprehension of offenders, traffic control, and investigations of traffic accidents and wrongdoers in the community. The Police Chief is the primary point of contact for council members and will provide periodic reports to the Council regarding activities within the police department.

The Department is comprised of Police Administration, Patrol Division, Investigation Division, Special Services Division, the Communications Center (a joint county and city facility), and the Police Reserves. Additional services provided include parking control through a part-time non-sworn parking officer.

The Department provides 24 hours a day police protection through marked and unmarked police patrols, foot patrols, and bicycle patrols. Council members are invited and encouraged to periodically ride with uniform officers on patrol as an orientation to police operations. Additionally, the department has police dogs. The dog and handler routinely work nights or evenings and supplement the normal shift. The police department also participates in a multi-county, multi-city drug enforcement task force.

#### **L. PUBLIC WORKS**

The Department of Public Works is comprised of several divisions, which operate from various locations in the City. This department includes Engineering, Compost, Streets, Transit, and Utility (electrical inspection, traffic signals, street lights). The Department works on improvements of all municipal public works, including roads, bridges, and sanitary and storm sewers. Engineering staff reviews plans, performs survey work, drafts construction plans, and inspects new construction for all public works projects. The Utility division maintains traffic signals and City-owned street lighting systems. Utility Division staff issue electrical permits and inspect electrical work of contractors and residents. The Streets Division is responsible for maintaining the City's streets, alleys and bridges. The Transit Division offers a variety of public transportation services.

#### **M. WATER POLLUTION CONTROL PLANT**

The Water Pollution Control Plant (WPCP) has the capacity to collect and treat 13 million gallons of wastewater daily and works with industries on wastewater discharge to the City. The Sewer division plans, schedules and performs maintenance work for storm and sanitary sewers.

#### **N. EMERGENCY MANAGEMENT**

The County Emergency Management office coordinates, directs and administers emergency planning and preparedness, and response and recovery activities for Marshall County. Its offices are located in the lower level of the Police Department. This agency responds to emergencies and provides emergency management expertise to the incident commander(s) of emergencies. It also supervises and coordinates emergency management training programs for governmental agencies and other organizations upon request. The City has specific emergency procedures set out in a separate plan and established in the Municipal Code.

#### **O. WATER BOARD**

The Marshalltown Water Works Board of Trustees is in charge of setting the Policy and Regulations by which the Utility operates considering all Federal and State regulations. The Treatment Plant can treat 12 million gallons per day to 147 miles of water mains to 10127 customers who are billed bi-monthly except larger users who are billed monthly. The utility contracts with CIRWA to provide treated water to parts of 13 counties and 30 other small communities in central Iowa.

## **SECTION II.**

### **BOARD, COMMITTEE & COMMISSION APPOINTMENTS**

Candidates/applicants for appointment to boards, committees and commissions can be identified by referral from residents of the city/community. Applicants are asked to use the application form, available in the City Clerk's Office to provide interest and background information. This application form is also available at the City of Marshalltown's website at [www.ci.marshalltown.ia.us](http://www.ci.marshalltown.ia.us).

**AREA OF INTEREST:** When a board, committee or commission is established by the City Council, the specific duties of the group are set forth in the ordinance or resolution that creates it. It is implicitly understood that the advisory body is limited to consideration of those matters, which are specifically assigned to its jurisdiction. In special or unusual circumstances, if the area of interest spreads beyond the area of jurisdiction, the board, committee or commission should formally request specific authorization from the City Council to consider the matter and to formulate recommendations in that area.

Similarly, in the case of ad-hoc committees appointed by the Mayor or City Administrator, the advisory committee or board should formally propose enlarging its scope and purpose to the appointing city official(s).

**CONFLICT OF INTEREST:** To determine whether an applicant has a conflict of interest, the applicant is referred to Chapters 362.6 and 403A of the Code of Iowa. Assistance is available from the City Attorney's office if applicants have questions about this matter.

**DESIRABLE QUALITIES:** Members of boards, committees and commissions should be independent of the City Council, or other boards, committees & commissions, and of other governmental units, so they may exercise unbiased judgment in addressing the tasks and issues before them.

**MEMBERSHIP RESTRICTIONS:** It is the City Council's policy that the following persons shall not be eligible for appointments to, standing boards, committees or commissions of Marshalltown:

1. Spouse, child, mother, father, mother-in-law, father-in-law, brother, sister, brother-in-law, sister-in-law, stepmother, stepfather, stepchild, aunt or uncle of a current City Council member;
2. A current member of a comparable County board, committee or commission, unless dual or joint memberships are provided for in the ordinance, resolution or statute, which creates the board, committee or commission to which appointment, is being made.
3. The Mayor may appoint advisory boards or committees for special purposes without adherence to membership restrictions.

**APPOINTMENTS:** Appointments on boards, committees or commissions are announced by the Mayor at regular City Council meetings. Applications for these appointive positions are available at the City Clerk's office and the City of Marshalltown website. The completed applications are reviewed by the Mayor who recommends appointees to the Council. Final appointment is made by an affirmative vote of a majority of the City Council.

COUNCIL & COMMISSION EFFECTIVENESS: The City Council and all appointed advisory boards, committees and commissions are policy-oriented groups. The advisory groups operate as satellite units, which focus on particular concerns, issues or problems in the community. When an advisory board, committee or commission has an item on a City Council meeting agenda, it is recommended that a representative from that body be present at the Council meeting. Similarly, when a member of any board, committee or commission addresses the Council at a public meeting, he or she should always clearly state whether he or she is speaking on behalf of the advisory group or as an individual.

COMMUNICATIONS BETWEEN STAFF, COUNCIL AND ADVISORY GROUPS:

The City Hall administrative staff report to the City Administrator and it is the Administrator's responsibility to direct and allocate staff time. Similarly, Council, Board, Committee and Commission members schedule their meetings so that City staff may be available to carry out day-to-day business. The City Administrator will assign staff liaisons to assist boards, committees and commissions as necessary. Boards, Committees and Commissions meet regularly and, as a group, present their issues and concerns to the City Council as a group, through reports and recommendations.

Advisory groups will consider the recommendations and proposals of the City Administrator and City staff. If the board, committee or commission is not in agreement with the recommendations of the City staff, the City Administrator has the option of including his recommendation in his report to the City Council. Any differences of opinion may be discussed at the Council meeting.

SUB-COMMITTEES: In certain instances, a board, committee or commission may determine that it is necessary to form a sub-committee to study in detail a particular aspect of a matter relating to that body.

- A sub-committee may be formed by a majority vote of the board, committee or commission members taken at a regular meeting. The sub-committee shall not be comprised of a majority of the members.
- Appointments to the sub-committee are made by consensus of the board, committee or commission.
- The sub-committee should be disbanded after completion of a particular study and recommendations have been presented to the board, committee or commission.

ROLE OF CHAIRPERSON: The role of the chairperson of a board, committee or commission consists mainly of ascertaining the responsibility of his or her advisory body and to limiting the discussion and deliberation to appropriately assigned areas of responsibility.

The chairperson facilitates and guides the advisory group discussions in a logical and orderly manner. The chairperson should clarify ideas as they are discussed and should repeat motions made to ensure that all members understand the wording of the item on which they are voting.

Each board, committee and commission is comprised of a diverse group of people, and it is inevitable that not everyone will agree on every issue all of the time. Every effort should be made to maintain amicable business-like relations among the individual members; personality conflicts only hamper the effectiveness of the group. In the event that a conflict of personalities does arise between members, it is the chairperson's responsibility to mediate and try to resolve the problem. If the matter cannot be resolved at that level, then the chairperson should seek assistance from the City Administrator.

CONFLICT RESOLUTION: Every effort should be made to maintain a mutually courteous and respectful rapport between staff, Council and advisory groups to facilitate the effectiveness of all concerned. However, should a conflict arise between an individual group member and the staff, that individual should approach the board, committee or commission chairperson who will try to mediate the conflict. Such matters of conflict should be brought to the attention of the Mayor and/or City Administrator.

**INTERACTIONS WITH CITY COUNCIL- RECOMMENDED PROCEDURAL GUIDELINES:**

The City Council considers input and recommendations from a variety of sources in the decision-making process. Therefore, the Council may not always follow the specific recommendations of any one particular board, committee or commission in adopting policy or procedure. Once the Council has established its position, members of advisory groups may continue to have reservations or individual objections. As representatives of the larger group, however, members should remember that they are expected to act in a manner consistent with the established policy and/or program as approved by the City Council.

**COUNCIL POLICY ON LEGISLATIVE ISSUES:**The City Council is responsible for establishing City policy and determines any public position of the City on legislative matters. Public stands on legislation taken by boards, committees or commissions will be taken only upon review and approval by the Council.

This policy should not prevent advisory groups from carrying out their normal functions publicly and openly, rather, its purpose is to establish that boards, committees and commissions do not issue policy statements or take public positions which fall within the purview of the City Council.

**SUBMITTING A FORMAL REQUEST FOR CONSIDERATION BY THE COUNCIL- PROCEDURE:**

In the event that a board, committee or commission wishes to request the endorsement or approval of a particular position from the Council, the request should be clearly reflected in the record of the board, committee or commission meeting at which the action is approved.

The board, committee or commission's secretary or staff liaison should immediately submit a written request in letter form, addressed to the City Council, with a copy to the City Administrator's office for inclusion on the next Council committee or City Council agenda. In the interim, copies of the request will be made available to all Council members so that informal discussion, if deemed necessary and appropriate by the Council, can take place. The communication should include an indication of the degree of urgency, which is perceived as necessary for obtaining a response from the Council.

**RELATIONS WITH THE PUBLIC:** Council and members of appointed boards, committees or commissions are encouraged to maintain awareness of public opinion relating to their field of influence. Citizen input should be welcomed and heard at meetings, and members should be considerate of all interests, attitudes, and differences of opinion. Members should be vigilant about maintaining not only the appearance, but also the principle of impartiality.

CONFLICTS OF INTEREST: In the event that a member of the Council determines that he or she has a direct, definite (demonstrable) conflict of interest regarding an issue before the Council, that conflict should be clearly stated at the beginning of council deliberations. Having a conflict of interest may or may not prevent the Councilperson from expressing an opinion on the matter being discussed under the person's judgment; however, voting would be inappropriate and may have legal consequences.

The matter of what constitutes a "conflict of interest" is often misunderstood and misstated. Obviously, people elected to public office are frequently motivated to seek office by virtue of their personal contact with government and an interest in what develops thereafter. The mere fact that their lives may be affected by a decision to be made does not mean that they have a conflict of interest. To be a conflict of interest, something direct, definite and capable of demonstration must be involved; it cannot be simply a remote possibility.

A relevant Iowa Attorney General's opinion concerning what constitutes a conflict of interest, based upon a pecuniary or an employment interest with a city is available for review in the City Attorney's Office. Again, what constitutes a conflict of interest is the frequent subject of litigation and legal opinion. Whether a conflict of interest exists can only be determined by applying the individual facts to the law.

Another matter arises from time to time, which may create the impression of a conflict of interest. Every Councilperson, the Mayor and many City employees are solicited to join such organizations as the Chamber of Commerce, MEDIC, etc. Participation in these organizations results in an exchange of valuable information and views. Nevertheless, when one of the organizations takes a position in favor of or in resistance to a proposal, at the very least the impression of a conflict of interest exists. It may appear to the layperson that membership in the organization involved would create a conflict. Organizations do not exist independent of their members but only exist because they do have members. While membership might be avoided, attendance at meetings and gatherings to exchange ideas and obtain information is certainly appropriate. A case can be made that a Councilperson would have a conflict of interest while he or she is a member of an organization, which appears before the Council and takes an official position on an issue.

City officers or employees are restricted by Iowa Code Section 362.5 with regard to direct or indirect benefits they may receive from any contract performed for the City. That code section provides as follows:

"A city officer or employee shall not have an interest, direct or indirect in any contract or job of work, or material, or the profits thereof, or services to be furnished or performed for the officers or employees of the City. A contract entered into in violation of this section is void."

GIFTS: The State of Iowa has set forth laws concerning gifts to local public officials, which includes persons appointed to local boards, committees and commissions, but not those of purely advisory intent. The official description of a "gift" is: "Anything of value given by a person doing, or seeking to do business with a public agency, within the donee's (recipient's) jurisdiction". The law bans all gifts received from those who might otherwise benefit, except food or drink having a value of \$2.99 or less per calendar day. Violation of this law is considered a "serious misdemeanor".

The City Council feels it is important to recognize special achievements among its citizens and employees. For that reason the Council has authorized the purchase of plaques, certificates and memorabilia for the purpose of distinguishing special service. City staff is authorized to purchase such materials as necessary to carry out this policy.

If you have any questions regarding the above matter, please contact the City Attorney's Office. The gift law is covered in the Iowa Code Chapter 68B, and available in the City Attorney's Office.

**PUBLIC RECORDS:** Availability of public records is governed by the Iowa Open Records Act and the Federal Freedom of Information Act.

**CLARIFYING THE OPEN RECORDS LAW:**

**Q. *What is a public record under Chapter 22 of the Code of Iowa (Open Records Law)?***

A. Section 22.1, Subsection 3 of the Iowa Code provides that public records include all records, documents, tapes or other information stored or preserved in any medium, of or belonging to the City. Records relating to the investment of public funds, such as investment policies, instructions, trading orders and contracts also constitute public records.

**Q. *Who supervises the records of the City?***

A. Generally speaking, the City Clerk is the lawful custodian of the records of the City. The City delegates the responsibility of implementing the requirements of the Open Records Law to particular officials or employees and publicly announces to whom this responsibility has been delegated.

**Q. *Who has the right to look at City records?***

A. Every person has the right to examine, copy, publish or otherwise disseminate information contained in public records if not otherwise confidential by law. This includes the right to make copies of the records while they are in the possession of the lawful custodian.

**Q. *When and where can a person look at the records?***

A. Examination and copying of the records shall be done under the supervision of the lawful custodian, who may adopt and enforce reasonable rules regarding such work and the protection of records against damage or disorganization. The records can be examined or copied subject to the custodian's rules during the customary office hours of the custodian. City holidays may or may not correspond to legal holidays, so it is possible that records may be examined and copied on some legal holidays and by rule may not be available for examination or copying when the custodian of the record is observing a City holiday. The City may make copies of tape-recorded meetings but they will not normally transcribe these tapes.

**Q. *Can the City charge fees for these services?***

A. The custodian of the public record will provide a suitable place for such examination and copying, but if it is impracticable to examine and copy the records in the office of the custodian, the person desiring the records must pay any necessary expenses to provide a place for such work. The custodian may charge a reasonable fee for services in copying and supervising the records during the work. If copy equipment is available at the custodian's office, the custodian will provide a copy to the person upon payment of a fee, which may not exceed the cost of providing the service.

**Q. *Will the City provide access to electronic records?***

A. A public record will not be withheld from the public simply because it is combined with data processing software. The City establishes policies and procedures to provide access to these records. The City may also establish payment rates and procedures regarding access to data processing software in compliance with Section 22.3A of the Code.

**Q. Are all records of the City open to public inspection?**

A. Certain public records will be kept confidential unless otherwise ordered by a Court or by the lawful custodian. Under the Iowa Code, there are numerous categories of confidential records, including but not limited to, personal information in confidential personnel records of the City, work produced by the City Attorney in relation to litigation or claims made by or against the City, criminal identification files of law enforcement agencies (excluding records of current and prior arrests and criminal history data) and, prior to public announcement of a project, appraisal information concerning the purchase of real or personal property for public purposes. Individual payroll information concerning sick leave pay and other benefits, including dates taken and hours accrued, is not necessarily a public record. The information disclosed, if a public record, cannot reveal personal medical conditions, professional evaluations, addresses, gender or birth dates.

Certain records of a city utility will be kept confidential to comply with the law. This includes proprietary information, records of customer names and accounts, records associated with marketing or pricing strategies, preliminary working papers, spreadsheet scenarios and cost data if their competitive position would be harmed by public disclosure not required of competitors and if no public purpose would be served by such disclosure. However, when public disclosure would no longer harm the utility's competitive position, the records will become available for examination and copying.

**Summary**

Generally speaking, most documents located at City Hall are considered public records. However, there are numerous exceptions to this rule. Iowa Code Section 22.7 sets out one list of records that are considered confidential. Individual requests are examined and handled on a case-by-case basis, based upon the applicable provisions of law included in Iowa Code Section 22.7. A copy of Iowa Code Chapter 22 is included in this binder. Again, what is a confidential or a public record is frequently the subject of litigation. For example, the case entitled Sioux City v. Greater Sioux City Press Club, et. al. (Filed, Iowa Supreme Court, April 13, 1988: concerned the confidentiality of job applications. This case was litigated because Iowa Code 22.7(18) is so generally stated that a Court decision was required. Because of the varied kinds of documents generated by government, it is impossible for a single statute to list each and every kind of document. Therefore, general areas of confidentiality exist and the Courts are, from time to time, called upon to determine if a specific document falls within one of these general confidential categories.

Confidential memoranda may occasionally be circulated to Council members, the Mayor and City Administrator. These memoranda frequently involve matters of personnel, which are either in litigation or could result in litigation. The contents of confidential memoranda are to be kept confidential and the memoranda are not to be circulated to anyone other than the Council members, Mayor or City Administrator. In addition, the content of these documents is not to be repeated.

Occasionally, Council members are asked by citizens to obtain information for them. It is appropriate to make a charge for the copy expenses to these citizens even though Council members are requesting information directly. Please be certain that individuals making requests understand that there will be a charge for copies.

## **SECTION III.**

### ***RULES AND ORDER OF BUSINESS OF THE COUNCIL OF THE CITY OF MARSHALLTOWN, IOWA***

**Rule 1. MEETING TIME:** The Council shall meet in regular sessions at 5:30 P.M., local time, on each and every second and fourth Monday of the month, except when the regular meeting date is a holiday, in which event the meeting will be held on the next day.

**Rule 2. SPECIAL MEETINGS:** Special meetings of the City Council may be held at any time, upon written notice of at least three Council members or upon written notice of the Mayor. Notice of special meetings will be in writing, signed by the three members of the Council or the Mayor. Notice shall be sent to each member of the Council and to the Mayor. There will be a \$200.00 fee for special meetings called for public matters.

**Rule 3. MEETING PLACES:** Meetings of the City Council will be held in the Council Chambers at City Hall, Marshalltown, Marshall County, Iowa, unless otherwise provided for in the meeting notice. All meeting calls, notices and agenda shall be given or prepared in accordance with the statutes, laws and ordinances pertaining to same.

**Rule 4. QUORUM:** A majority of the members of the Council shall constitute a quorum and no business shall be conducted without a quorum.

**Rule 5. CONDUCT OF MEETING - AGENDA:** The Mayor shall be the chairperson and presiding officer (or the Mayor pro-tem in the absence of the Mayor) and shall conduct the regular meeting in the following order:

- A Call to order.
- B Pledge of Allegiance.
- C Roll call. Roll will be called in rotating alphabetical order.
- D Approval of the minutes.
- E Comments: Mayor, Council, Administrator - Comments by the Mayor, Council and City Administrator that are informational, explanatory or educational and that do not require any action, such as announcements of events, welcoming special guests or recognition of an achievement.
- F Adoption of the agenda. Once adopted by the Council, the business of the meeting will follow the printed agenda and all matters will be taken in the order thereof. After adoption, the agenda cannot be changed except by a two-thirds vote of the Council members present.

- G Consent agenda. The consent agenda shall consist of non-controversial items that will be listed thereon such as, but not limited to, refunds, appointments, department reports, applications, and communications not requiring action. The items comprising the consent agenda will be furnished to each member, the Mayor, the City Administrator, City Clerk and City Attorney and will not be considered individually but will be adopted on one motion. Council members or the Mayor may decide to have any of these items considered individually on the agenda.
- H Special committee reports. Any special committee reports shall be taken in alphabetical order.
- I Communications. Items of general importance that request Council action or an opportunity to address the Council.
- J Resolutions. After discussion by the Council, a resolution may be addressed by a member of the general public upon the same conditions as provided under public comments. A resolution that pertains directly to another item of business may be placed with that item on the agenda. A resolution that requires a public hearing will be placed first in order of resolutions being considered. The five-minute rule noted in Paragraph L below will apply to all comments.
- K Ordinances. After discussion by the Council, a member of the general public may address an ordinance, upon the same conditions as provided under public comments. An ordinance that requires a public hearing will be placed first in order of ordinances being considered. The five-minute rule noted in Paragraph L below will apply to all comments.
- L Public comments. Comments made by members of the general public on any item not in the agenda. The proposed speaker shall, after being recognized by the chair, approach the microphone, state his or her name and address and should limit his or her comments to five minutes. The speaker shall direct comments to the chair and the council as a whole. The chair may increase or decrease the time allotted to each speaker, unless the time limits imposed by the chair are overridden by a majority of the Council members present. No formal action of the Council shall be taken pursuant to public comments.
- M Adjournment.

**Rule 6. AGENDA PREPARATION.** No business may be submitted for placement on the agenda for a regularly scheduled council meeting after NOON (local time) of the 4th day (Thursday) prior to the meeting day. Items for the agenda may be submitted by the Mayor, any Council member, Council committee, City Administrator, City Attorney, Department Director and the City Clerk.

All agenda items shall be submitted to the City Clerk by the agenda cutoff time set forth above. The Mayor, City Administrator and City Clerk are responsible for preparation of the agenda.

No item submitted for the agenda may be withdrawn after the agenda cutoff time except by consent of a majority of the Council present at the meeting to which the agenda is submitted. Any item may be withdrawn before the agenda cutoff time by the party submitting it, but if it is submitted by a committee, it may only be withdrawn with the consent of a majority of that committee.

**Rule 7.** All questions relating to the priority of business shall be decided by the Mayor without debate.

**Rule 8.** The Mayor shall preserve order and decorum, and shall decide all questions of order, subject to an appeal to the Council.

**Rule 9.** The Mayor as the presiding officer has the responsibility of enforcing these Rules and Order of Business. Any council member who believes that the Mayor or the presiding officer in absence of the Mayor, is failing to do so, at the time the breach occurs, may call attention to it, by making a Point of Order. A Point of Order has the effect of requiring the presiding officer to make a ruling on the question involved or to enforce the council rule.

Unless otherwise specified by law or these rules, all business will be conducted by majority rule of those present and voting.

Any two council members, by a motion and a second, have the right to appeal from the decision of the presiding officer, regarding the parliamentary ruling. The parliamentary ruling is then taken from the presiding officer and presented to the council members for a vote for the final decision.

If a council member believes that the ruling of the presiding officer is proper, but would like to change the ruling, the appropriate motion and second would be for a temporary suspension of the Rules under Rule 41.

**Rule 10.** While the Mayor is putting the question, no Councilperson shall engage in conversation, walk across or out of the room.

**Rule 11.** Every Councilperson, prior to speaking, shall address the Mayor and shall not proceed with remarks until recognized by the Mayor.

**Rule 12.** When two or more Councilpersons address the Mayor at once, the Mayor shall recognize and name the Councilperson who is to speak first.

**Rule 13.** No Councilperson shall speak more than once on one question until every member choosing to speak shall have spoken.

**Rule 14.** Any member of the City Council choosing to give his or her reasons for his or her vote on any question or motion before the Council shall have the right to do so, but shall confine his or her remarks strictly to the matter under consideration, and be limited in time to five minutes.

**Rule 15.** No member of the City Council, or any other person authorized to address the Council, shall be permitted to use any inappropriate or personally offensive language.

**Rule 16.** A Councilperson called to order shall immediately desist in speaking, unless permitted to explain. If there be no appeal, the decision of the Mayor shall be conclusive.

**Rule 17.** While a Councilperson is speaking, no Councilperson shall hold any private discourse, nor pass between the speaker and the chair.

**Rule 18.** Every Councilperson who shall be present when a question is stated from the chair shall vote thereon, unless excused by the Council or upon declaring a conflict of interest or an appearance of a conflict of interest in the question, in which case such person shall not vote.

**Rule 19.** No motion shall be put or debated unless it is seconded. When a motion is seconded, it shall be stated by the Mayor before debate, and every such motion shall be reduced to writing, if required by a Councilperson.

**Rule 20.** After a motion or resolution is stated by the Mayor, it shall be deemed to be in possession of the Council, but may be withdrawn at any time before decision, but if any amendment has been proposed or adopted, it shall not be withdrawn without the consent of the mover of such amendment.

**Rule 21.** If the question in debate contains several distinct propositions, any Councilperson may have the same divided, and the item(s) considered separately.

**Rule 22.** In all cases where a resolution or a motion is entered on the minutes of the Council, the name of the Councilperson moving the same shall be entered also.

**Rule 23.** The ayes and nays upon any question shall be taken and entered on the minutes.

**Rule 24.** When a blank is to be filled, and different sums or times are proposed, the question shall be taken first on the largest sum, or the longest time.

**Rule 25.** When a question is under debate, the only motion in order shall be:

1. To adjourn.
2. The previous question.
3. To lay on the table.
4. To postpone indefinitely.
5. To adjourn to a certain day.
6. To refer.
7. To amend.

And such other motions shall have precedence in the order herein arranged, the first three to be decided without debate.

**Rule 26.** A motion to adjourn the Council shall always be in order, except: first, when a Council person is in possession of the floor; second, while the ayes and nays are being called; third, when the members are voting; fourth, when adjournment was the last preceding motion; or, fifth, when it has been decided that the previous question shall be taken.

**Rule 27.** A motion to adjourn, simply, cannot be amended, but a motion to adjourn *to a given date* may be, and is open to debate.

**Rule 28.** When the previous question is moved and seconded, it shall be put in this form: "Shall the main question be now put?" If this carries by 2/3 majority, all further motion and debate shall be excluded, and the question put in this order: first upon the amendments pending, and then upon the main proposition before the Council.

**Rule 29.** A motion to lay a question upon the table, simply, is not debatable, but a motion to lay [a question] on the table *conditionally* is subject to amendment and debate.

**Rule 30.** A motion to refer to a committee shall take precedence over a similar motion for a special meeting.

**Rule 31.** A motion to amend an amendment shall be in order, but a motion to amend an amendment *to an amendment* shall not be entertained.

**Rule 32.** An amendment modifying the intention of motion shall be in order, but an amendment relating to a different subject shall not be in order.

**Rule 33.** On amendment to "Strike out and insert", the paragraph to be amended shall first be read as it stands, then the words proposed to be stricken out, and those to be inserted, and finally, the paragraph as it would stand as so amended.

**Rule 34.** A question may be reconsidered by a vote of two-thirds of all the members of the Council. The Motion to reconsider can only be made by a Councilperson who voted with the prevailing side and is debatable.

**Rule 35.** No question shall be reconsidered more than once, nor shall a vote to reconsider be reconsidered.

**Rule 36.** The Council shall meet as the Committee of the Whole at 5:30 PM on the first and third Mondays of each month.

**Rule 36-1. DECLARATION OF POLICY:** The Council declares the following as its policy, effective July 1, 2004:

A. The City Council shall select a City Administrator and evaluate his-or her performance on a routine basis. The City Administrator shall work with, coordinate, and supervise the department directors who have the knowledge, ability, and expertise to govern their departments, including day-to-day operations, personnel supervision and assignment, expenditures within the limitations of these Rules, the administration of rules and regulations of their departments and the City of Marshalltown, Iowa, and staffing.

B. Except for the purpose of inquiry, members of the City Council shall deal with the administrative agencies of the City through the City Administrator.

**Rule 36-2. SPECIAL COMMITTEES.** The Mayor may appoint a special committee subject to council approval to perform a specified task, and upon submission of a final report, the committee shall dissolve.

A. The Mayor or the committees may request assistance from the department directors for input when needed.

B. All City Council members, the Mayor, City Administrator and City Attorney are welcome to attend any meeting of a committee, and notice of all committee meetings will be given to the entire Council and the Mayor and posted for the public.

**Rule 36-3.** Committees will make reports to the Council as requested by the Council. All committee recommendations, decisions or proposed action shall be subject to the final approval and adoption of the Council in formal session.

**Rule 37.** All special committees shall consist of three members each, unless some other number is specified. The committee shall select the chair unless designated by the council.

**Rule 38.** On the acceptance of a final report from a special committee, the said committee shall be considered discharged.

**Rule 39.** Special committees to whom references are made shall in all cases report their opinion in writing. This opinion shall be in the form of an order, resolution, or recommendation. All committee reports and recommendations shall be approved by a majority of the committee before presentation to the Council as a whole, though a minority report and recommendation may likewise be made and the Council consider both reports on the matters submitted to it in the course of its regular business.

**Rule 40.** Three members of the Council can compel the attendance of the absent members at any regular, adjourned, or duly called special meeting, by serving notice upon said absent members.

**Rule 41.** These Rules may be temporarily suspended by the unanimous consent of all the members present, or by a vote of two-thirds of all the members of the Council, but shall not be repealed, altered or amended unless by concurrence of two-thirds of all the members of the Council.

**Rule 42.** In all proceedings to amend or change an ordinance or section thereof, the proposed amendment shall contain the entire ordinance or section thereof to be amended or changed, and the former ordinance or section shall be repealed. In other words, an ordinance or section shall not be amended by striking out, inserting or adding words, but the former ordinance or section (as the case may be) shall be repealed, and the new one, as amended, written out in full and substituted in its place.

**Rule 43.** Special committees of the City Council shall be empowered to require the attendance of witnesses, and for that purpose, the chairperson of such committee is authorized to issue subpoenas to the city police chief, who shall immediately serve the same as other legal notices are served.

**Rule 44.** All communications and reports received by, brought before the Council shall be accepted by the Council, and filed by the Clerk without the necessity of a motion or other formal action.

**Rule 45.** Robert's Rules of Order, 9th Edition, are adopted to supplement these Rules, where not in conflict with these Rules.

#### **PURCHASING PROCEDURES**

For Purchasing Procedures for the City of Marshalltown please see the Purchasing Policy developed May 1994 and amended June 2000 on file in the City Clerk's Office.

## **SECTION IV.**

### **OPERATING PROCEDURES**

#### **IOWA OPEN MEETINGS LAW**

The Iowa Open Meetings Law provides for citizen access to governmental policy and decision-making processes. A public meeting occurs when a quorum of the City Council (or one of its committees) gathers in a single place, either physically or electronically. However, the mere gathering of a majority of the Council does not constitute an illegal meeting unless deliberations or actions take place within the scope of the policy-making rights of the Council. There are a number of reasons which can justify a "Closed Session" (see below), therefore, the Council and all boards, committees and commissions are directed to observe the requirements and constraints of the Iowa Open Meetings Law, Chapter 21 of the Iowa Code, in the conduct of all meetings.

#### **"CLOSED" SESSION**

Council, committee and board members are encouraged to be familiar with the Iowa Code Section 21.5, which details the reasons for meeting in a "closed session". A motion must be made at the public meeting to go into closed session, and the motion must cite the basis, under Iowa Code Section 21.5, for the need to have the closed meeting. That motion and basis should appear in the minutes of the body. The motion must be sustained by a vote of two-thirds of the members of the body. This means that a vote of five out of seven members is required if all council members attend. If less than five members are in attendance, all must vote to go into the closed session. In the event that an unlawful meeting occurs, criminal penalties are provided, and the City may be sued for enforcement action. The suit can include a request for attorney fees and expenses.

The legality of the gathering of City Council persons has been subject to frequent litigation. Copies of legal opinions regarding the matter of public scrutiny of the meetings of public officials are available in the City Attorney's Office.

Sometimes citizens and groups are not aware that their invitation to you to attend a meeting or gathering could constitute an unlawful meeting. Sometimes a majority of the Council is invited to such a gathering and individual members do not know that others have been invited. Therefore, care must be taken in attending such gatherings to determine if a majority of the Council is present and if matters bearing upon City business or policymaking might be discussed. In the event that a majority of the Council is invited, it can constitute a legal gathering if a meeting notice has been posted through the City Clerk's office. Attending such meetings can be helpful in terms of gathering information and obtaining citizen input, and posting an open meetings notice prevents criticism from citizens and the media. In attending such a meeting, you must be certain that the public is allowed, to constitute an open meeting. In the event that you find a quorum of Council members present with a presentation or discussion of City business occurring (and no open meetings notice has been posted), you should leave.

Marshalltown's City Council meeting procedures are set forth in the ***Rules and Order of Business of the Council of the City of Marshalltown, Iowa.***

#### **A. MEETING NOTICES**

A Notice, showing the time, place, and date of each meeting and its tentative agenda shall be posted at least 24 hours prior to the meeting of the Council or of any appointed board, committee or commission. The notice should be posted by the City Clerk on the official bulletin board at City Hall, with copies provided to the news media. Contact the City Clerk (754-5701) with any questions. Emergency notice provisions are allowed by Iowa Code.

## **B. REGULAR MEETINGS**

Meetings of the Council, or of any appointed board, committee, or commission of the City should be held in the public buildings of the City in rooms or chambers which are accessible to the disabled, unless circumstances dictate another arrangement. The location of such meetings is designated by the board, committee or commission by a majority vote of its members. Regular meetings shall be held at regular times and places consistent with the necessity for such meetings, and shall be held on regular days of the week, regular weeks of the month or regular days of the month. The time, date, place and tentative agendas of regular meetings of appointed boards, committees and commissions shall be made public in accordance with the requirements of the Iowa Open Meetings Law

Special arrangements for the hearing impaired, or for interpreters will be considered upon request to the City Clerk's Office.

## **C. SPECIAL MEETINGS**

Special meetings of the City Council may be held at any time, upon written notice of at least three Council members or upon written notice by the Mayor. The signed notices shall be personally delivered to each member of the Council and the Mayor. The cost of calling a special council meeting for approval of a permit, license or similar instrument is \$200.00 and shall be the responsibility of the petitioner.

Each appointed board, committee or commission may establish its own rules and regulations governing the calling of special meetings and such rules and regulations shall be filed in the office of the City Clerk for inspection by any citizen. These rules and regulations shall provide for the giving of reasonable notice of any special meetings whenever possible.

## **D. PUBLIC MEETINGS**

The public has the right to be present at meetings of the Council and any meetings of any boards, committees or commissions of the City, except when closed meetings are permitted by State law. The Council, boards, committees or commissions of the council may make and enforce reasonable rules and regulations for the conduct of persons attending its meetings.

Conduct and format of City Council meetings are set forth in Rule 5, Rules and Order of Business.

## **E. INFORMAL PUBLIC HEARINGS**

An informal public hearing is one, which is called in order to give the public an opportunity to comment on a subject. Informal hearings are not required by State law or City ordinance. The board, committee or commission concerned may set rules for notifying the public of an informal hearing, establish a time frame, and conduct the hearing in any fair manner it chooses.

## **F. FORMAL PUBLIC HEARINGS**

A formal public hearing is one, which must be conducted in accordance with State laws or City ordinances, and is designed to solicit comment from the general public.

## **G. HEARING PROCEDURES**

Hearings held by an advisory body should be fair and impartial. If a member is biased or has a personal interest in the outcome of a hearing, he or she should disqualify him or herself from participation.

Persons and groups who may be affected by the matter being discussed in the hearing should be given reasonable notice of the time and place of the hearing, and should be given a reasonable opportunity to be heard. They may be represented by counsel and be permitted to present oral and documentary evidence.

The chair should open the hearing and explain the hearing procedures. If there are numerous persons who are expecting to participate, and all represent the same views and opinions, the chair may ask that a spokesperson be selected to speak on behalf of the group. If this arrangement cannot be made, the chair may restrict each speaker to a limited time (generally three minutes) so that all may be heard. Irrelevant

comments or speakers who run over the time allotted should be ruled out of order by the chair.

After the hearing has been opened, the usual procedure is for staff to present the staff report, followed by the commissioners' discussion relating to the report. Proponents are given the opportunity to present their case first; opponents' presentation follows.

When interested persons have had the opportunity to speak, the hearing is closed, ending audience participation. Board, committee or commission members may discuss and take action on the proposal following the hearing if such action is planned on their meeting agenda.

## **H. MOTIONS**

When a member wishes to propose an idea for the body to consider for discussion and possible action, the member must make a motion. In order to make a motion, the following steps must be taken:

1. The member asks to be recognized by the chair;
2. After being recognized, the member makes the motion ("I move...");
3. Another member seconds the motion;
4. The chair states the motion and asks for discussion;
5. When there has been sufficient discussion, the chair will close the debate ("Are you ready for the question?" or "Is there any further discussion?");
6. If no one asks for permission to speak, the chair puts the question to vote;
7. After the vote, the chair announces the decision ("The motion is carried", or, "Motion fails," as the case may be).

Phrasing a motion can be difficult. Before action can be taken on a motion, corrections or clarification may be necessary. Until the chair states the motion (step 4), the member making the motion may rephrase (amend) or withdraw it. After an amendment, the motion as amended must still be seconded and then voted upon. In order that members are clear as to what they are voting on, it is particularly important when a motion is amended that the chair restate the motion.

In making a motion, members should avoid including more than one proposal in the same motion. This is especially important when members are likely to disagree. If a member would prefer to see proposals divided and voted upon separately, the member should ask the chair to divide the motion. If others do not object, the chair may then proceed to treat each proposal as a distinct motion, to be acted upon separately. The request to divide may also be made by motion.

## **I. ADJOURNMENT**

When a board, committee or commission has finished its business, a motion to adjourn is in order. This motion is not debatable; therefore, it is the duty of the chair to see that no important business is overlooked.

## **J. MINUTES**

Minutes of all meetings must be prepared by the City Clerk, or Clerk's designee, Secretary of the board, committee or commission, or that body's staff liaison. A copy of all such minutes must be filed with the City Clerk's office. Upon approval by the board, committee or commission, written minutes constitute the official record of its activities.

Additions and corrections to the minutes may be made only in public meetings, with the approval of the body, and not by private request of individual members.

Minutes of boards, committees and commissions for inclusion on Council agendas are to be submitted in a timely manner. A suggested time frame is two weeks. Minutes may be labeled "Subject to Approval" if a meeting to approve the minutes cannot be scheduled within that time frame.

No Council action should be requested until receipt of appropriate board, committee or commission minutes.

City Council policy does not require that minutes be recorded verbatim. Minutes record the essence of decisions made and of actions taken. Minutes shall show the date, time, and place of the meeting, members present, action taken, the results of each vote taken and information sufficient to indicate the vote of each member present.

#### **K. AGENDA PACKETS**

Council meeting agenda packets detailing the items of business to be discussed and any council communications to be presented, will be prepared by the staff and furnished to the members. Members should contact the chairperson or the City Administrator if there are any questions regarding the information.

Agendas for public meetings shall be posted at City Hall and shall be made available to the Mayor and Council, City Department Directors and to the local media. Consult the City Clerk for procedures. At 5:00 P.M. on Friday, the agenda packets are taken to the Police Department where officials may pick them up through the weekend.

#### **L. FISCAL MATTERS**

The financial plan for the City's operating revenues and expenditures plus capital improvements is prepared in the nine months before the beginning applicable date. Each October, departments submit their financial plans to the Finance Department. The operating budgets are prepared according to specific guidelines as provided by the Finance Department.

Departments develop capital projects deemed necessary according to requests from boards, committees or commissions, the public, or the departments themselves. Any funds to be spent by boards, committees or commissions are budgeted in the financial plan of the department, which works with each respective body. Typically, a board, committee or commission that oversees operations of a department (such as the Library Board of Trustees) will review and approve its financial plan before it is submitted to the Finance Department.

The City Council will hold Committee of the Whole sessions to review and finalize the entire financial plan. In accordance with State regulations, the proposed one-year budget is published in the Times-Republican newspaper, prior to a public hearing. The Council simultaneously holds a public hearing on the entire financial plan and one-year budget and adopts them at the same time. The one-year budget is required by the State and must be adopted by March 15 of each year.

## **SECTION V.**

### **BOARDS, COMMISSION AND COMMITTEE ROLES**

Refer to attachment "A" for application

#### **I. CITY SPONSORED BOARDS AND COMMITTEES**

**BIKE PATH COMMITTEE** - Created to provide a citizen committee to work with the Parks and Recreation Department in creating a master plan of street that could be designated as bike route streets to create a closed loop trail. Committee provides input for future trail development.

**BOARD OF ADJUSTMENT** - The Board of Adjustment is a quasi-judicial board that acts similar to a judge and has the authority to allow use of zoned property for a non-conforming use or extension of a non-conforming use as provided in the Zoning Ordinance. If an applicant disagrees with the Board's decision on the Variance, Special Use or Appeals, they would appeal to the Court system. The Board of Adjustment meets the 1<sup>st</sup> and 3<sup>rd</sup> Tuesday of each month at 5:00 PM. Five members are appointed by the Mayor, with five-year terms.

**CIVIL SERVICE COMMISSION** - Three members appointed by the Mayor with approval of City Council for a term of four years. Original entrance and promotion examination for city employment, within civil service regulations, are given by the Commission and appointments are made from the qualified civil service list. The Commission hears appeals from aggrieved persons holding civil service rights upon their removal, demotion, and/or suspension.

**COLISEUM COMMISSION** - Veteran representation of the various veterans organization in the City. Committee oversees the operations, maintenance, and capital improvements to the building. Committee works with Parks and Recreation Director. Committee holds monthly meeting at the Coliseum. The Memorial Coliseum Commissioners are selected by the Veterans Service Organizations, enumerated in Section 37.10 in the Code of Iowa, at a convention. The selection by the Veterans Convention shall be approved by resolution by the City Council. The Commissioners are in charge of the management and supervision of the Memorial Coliseum. Meetings are held on the 1<sup>st</sup> Monday of each month - appointments are for a three-year period.

**DANGEROUS BUILDING BOARD OF APPEALS** – Three members appointed by the mayor, with the building official serving as secretary in an ex-officio position, provide final interpretation of the dangerous building ordinance passed August 21, 1981.

**ELECTRICAL APPEALS BOARD** – Individuals may appeal decisions made by the electrical inspector with the electrical appeals board. Three members have six-year terms.

**ELECTRICIANS EXAMINING BOARD** - Five members appointed by the City Council. The five members consist of a councilman, a journeyman electrician, a restricted electrician, an electrical contractor, and the city electrical inspector who serves as secretary. The three appointed electricians serve three-year terms. The duties of the Board consist of qualification examinations for all electricians and the revocation or suspension of licenses, if necessary. This Board meets the first Thursday of each month.

**EMPLOYEES DEFERRED COMPENSATION PLAN COMMITTEE** - Resolution #83-107 and #83-134. The Plan shall be administered by a committee consisting of a representative of the City Solicitor, the Finance Director, a banker or other person versed in investments, and an hourly employee, appointed for a period of two years, with no more than two consecutive terms for the banker and the hourly employee. The Committee shall have full power and authority to adopt rules and regulations for the administration of the plan, and to interpret, alter, amend or revoke any rules and regulations so adopted. The Committee shall administer the

plan and render decisions in an even-handed manner so that all participants in similar circumstance are treated alike.

**ENTERPRISE ZONE** - This commission shall have the responsibilities designated by the Iowa Code, including but not limited to, the review of applications, the establishment of term limits, re-appointment procedures and the development of administrative rules. The Enterprise Zone is a State Tax Incentive Program for designated areas within the City used to promote industrial, commercial and residential growth within the Community. Nine Representatives shall be from: labor union, IDED, City Council, IVCCD, City Planning & Zoning Commission, Workforce Development Center and three at-large members; appointments are for two-year terms.

**GAS & PLUMBING BOARD** - The Mayor, with City Council approval, shall appoint a Board of Examiners, one of whom shall be the City Plumbing/Gas Inspector, one City Council member, one Master Plumber, who has engaged in the plumbing business for at least five years in the City, or Journeyman Plumber, and one person from the gas department of Alliant Utilities, Inc.

**HOUSING APPEALS BOARD** - The Housing Appeals Board shall consist of one (1) Iowa licensed realtor; one (1) Iowa registered architect or engineer; one (1) contractor experienced in remodeling; one (1) lending institution representative; two (2) representatives of the general public, one (1) of whom shall be a landlord. Each board member shall have had at least five (5) years' experience in his or her respective field.

**HUMAN RIGHTS COMMISSION** - The Human Rights Commission consists of seven citizens who are appointed by the Mayor with the approval of the City Council. The members of this Commission will have the following representation: City of Marshalltown, Marshalltown Community School District, Marshalltown Community College, Area Education Agency 6, Marshall County, Diversity Committee and Ministerial Alliance. This Commission will act as an executive committee with each member representing their defined segment of the community. Each member will have the freedom/flexibility to create/form sub-groups to respond to particular issues. The full Commission will have oversight responsibility and have a proactive element as a part of its overall mission.

**INVESTMENT ADVISORY BOARD** - Three members meet quarterly to review investment activity of the City to ensure compliance with State and City investment policy.

**LIBRARY BOARD OF TRUSTEES** - The Marshalltown Public Library Board of Trustees consists of six city and one rural Marshall County residents with a term of six years. The Board sets library policy, establishes an annual budget, approves all expenditures, and supervises the library director. The Board has charge, control and supervision of the Public Library, its appurtenances, fixtures and rooms containing the same. Directs and controls all the affairs of the Library.

**MARSHALLTOWN SOFTBALL ASSOCIATION** - Seven players represent the some 1000 softball players in the Marshalltown softball leagues. They meet with the Athletic Recreation superintendent monthly to discuss capital improvement ideas for the softball complex, league operations, which state, regional or National tournaments to bid on and the amount of the bids. On occasions, members may sit on committee hearing for bad sportsmanship demonstrated at a league or tournament game.

**MUNICIPAL ART GALLERY/FISHER CENTER** - waiting for description.

**PUBLIC HOUSING ADVISORY GOVERNING BOARD** - The City Council members and one Resident Advisory Board member take action on approving the Section 8 Administrative Plan, the Agency Manual and 5-7 Plans, and the Budget. This Board meets as needed.

**PLAN & ZONING COMMISSION** - Seven members appointed by the Mayor subject to approval of the City Council; 5 year terms. The Commission shall recommend the boundaries of the various original district and appropriate regulations and restrictions to be enforced therein. In addition, the Commission shall make recommendations for amendments, supplements, changes and modifications of said regulations, restrictions, and boundaries of districts. Meetings will be held the Thursday after City Council meetings, twice a month.

**RESIDENT ADVISORY BOARD** - HUD requires each Housing Authority have a Board to assist the review and make recommendations to the PHA Governing Board concerning administrative policies and agency plans. This board meets as needed and comprised of Section 8 Participants.

**SITE PLAN REVIEW BOARD** - This board reviews changes within the Central Business District regarding signage, site plan and storefront remodeling. The Board also reviews site plans for government buildings, schools, churches, and multi-family developments. Members of the committee shall be appointed with due regard to the proper representation of such fields as: architecture, history, architectural history, planning, landscape architecture, site design or cultural geography. There are five members, with one member representing the Plan and Zoning Commission.

**TREES FOREVER/BRANCHING OUT COMMITTEE** - Community members that have interest in community beautification especially trees. The committee meets with city horticulturist in late fall to review the spring planting program and provide direction to the city horticulturist for next spring project. The committee members volunteer each year recruit tree volunteers, make presentation, interview for radio shows, raise money and plant trees on the planting day.

**UNIFORM BUILDING BOARD OF APPEALS** - Five members appointed by the Mayor with the approval of the City Council for five-year terms. Their duty is to determine the suitability of alternate materials and types of construction and to provide for a reasonable interpretation of the Building Code.

**UNIFORM FIRE CODE BOARD OF APPEALS** - Five members appointed by the Mayor with the approval of the City Council for five-year terms. Their duty is to determine the suitability of alternate materials and types of construction and to provide for a reasonable interpretation of the Fire Code.

**WATER BOARD** - The Marshalltown Water Works Board of Trustees is in charge of setting the Policy and Regulations by which the Utility operates considering all Federal and State regulations. The Treatment Plant can treat 12 million gallons per day to 147 miles of water mains to 10127 customers who are billed bi-monthly except larger users who are billed monthly. The utility contracts with CIRWA to provide treated water to parts of 13 counties and 30 other small communities in central Iowa. Three members appointed by the Mayor for six-year terms without City Council approval have six-year terms.

## **II. MEMBERS OF THE COUNCIL ARE APPOINTED AS CITY REPRESENTATIVES TO THE FOLLOWING AGENCIES:**

**CABLE TV ADVISORY COMMITTEE - IVCC/CITY** - Advisory committee to oversee the operations of the government/education Channel 12 on the TCI cable television system, in accordance with a Franchise Agreement with TCI, Iowa Valley Community College and the City of Marshalltown. The committee shall consist of eight members and a chairman. This committee is comprised of four representatives each from the college and the City.

**CONVENTION & VISITORS BUREAU** - The mission statement of the Marshalltown Convention and Visitors Bureau (MCVB) states, "The MCVB is dedicated to promoting the Marshalltown area as a destination for meetings, conventions, group tours and recreational activities with an emphasis on overnight business." Our efforts to market the community beyond our borders involve an active board of directors, who serve along with other interested community members, on four teams that meet monthly and work on objectives derived directly from our mission statement.

**LANDFILL COMMISSION** - The Solid Waste Management Commission of Marshall County is formed by 28E Agreement between 16 municipalities and governmental units. This twenty-one-member commission operates and maintains a facility for the disposal of solid waste. The agreement also includes recycling. Each member community is represented based on population. The City of Marshalltown has five representatives.

**MAIN STREET COMMITTEE - CBD** - The mission of Marshalltown's central business district is to continuously enhance the district into THE destination for businesses, shoppers and travelers alike through broad based representation and a strong public/private partnership, with a vision to be the heart of the city, the nucleus for civic, cultural, social, retail, history and heritage. Through that joint cooperative effort, the central business district will become a warm, welcoming, vibrant place to live, grow and prosper, with attractive and appealing businesses that are successful in fulfilling the needs of all segments of the community.

**MARSHALLTOWN ECONOMIC DEVELOPMENT IMPACT COMMISSION (MEDIC)** - Terms end on May 31 & begin on June 1; Terms are for three years, except ex-officio members one year.

**911 COMMISSION** - The 911 commission is made up of city and county users of the 911 system. The Police Chief is the systems administrator and the Assistant Chief is the assistant administrator. The Commission has budget authority and funds all operational issues for the communications center with surcharge money and pays the personnel costs with general fund money: 62% by the city and 38% from the county. The Commission does not have operational control. The center is a joint city/county operation responsible for dispatching all public safety agencies countywide.

**SENIOR CITIZEN'S CENTER** - The Senior Citizen's Center consists of two organizations housed under the same roof at 20 East State Street. The first floor holds a not-for-profit activity center for persons age 55 and over. Primarily funded by donations and fund-raising functions, the Center is open Monday through Friday from 12:00 noon to 5:00 PM. No dues or fees are charged, and visitors are welcome on a walk-in basis. The Center offers card games, pool tables, quilting, and companionship for senior members of the community. Further information is available from Kathy Waltermire, Director, at 754-5744.

The second floor houses the office of The Hawkeye Valley Area Agency on Aging (HVAAA), which is funded by federal funds plus donations from the public. Its main purpose is to provide well-balanced, nutritious meals to senior citizens (age 60+) on a daily basis to allow those citizens to remain in their own homes as long as possible. To achieve this end, daily "congregate meals" are served at the Center. Five satellite sites also receive hot meals from the Center and some meals are sent out to individuals in their homes. Approximately 130 meals are provided daily. In addition, out-of-town medical transportation is arranged through this office, which also offers information and referrals and some recreational classes. Contact Donna Eddy, Director: 752-1638 for further information.

**SISTER CITIES ASSOCIATION OF MARSHALLTOWN** - The objectives of the Sister Cities Association of Marshalltown is "To cause the people of the City of Marshalltown and the people of similar cities of foreign nations to acquire a consciousness of each other, to understand one another as individuals, as members of the community, as citizens of their country and as part of the family of nations". Currently, Sister Cities of Marshalltown has two sister cities, Minami-Alps, Japan and Budennovsk, Russia. A third potential sister is Korsun, Ukraine. Sister Cities conducts adult, middle school student, teach and Marshalltown High School exchange programs, as well as special exchanges in cooperation with Iowa Sister States. The Mayor, President of the Chamber of Commerce and the School District Superintendent hold permanent positions on the board.

CITY OF MARSHALLTOWN
APPLICATION FOR APPOINTMENT
TO BOARDS AND COMMISSIONS

Date: \_\_\_\_\_

NAME: Last First Middle

ADDRESS (Street/RFD) Apt. City County State/Zip

TELEPHONE: Day/Business Home Telephone

EMPLOYER: \_\_\_\_\_
(If retired, please indicate last employer and position held.)

VOLUNTEER CIVIC/COMMUNITY ACTIVITY

Please list the organizations in which you have been involved, the nature and duration of your involvement, and any offices or positions you have held. If necessary, continue on another sheet and attach. Include any innovative programs you have developed or participated in at work or in other volunteer capacity.

Please check the following City Boards and/or Commissions to which you would like to be appointed:

COUNCIL SPONSORED BOARDS

- Bike Path Committee
Board of Adjustment
Civil Service Commission
Coliseum Commission
Dangerous Building Board of Appeals
Electrical Appeals Board
Electricians Examining Board
Enterprise Zone
Gas & Plumbing Board
Housing Appeals Board
Human Rights Commission
Investment Advisory Board
Library Board
Marshalltown Softball Association
Municipal Art Gallery/Fisher Center
Public Housing Advisory Governing Board
Plan Zoning Commission
Site Plan Review Board

- Trees Forever/Branching Out Committee
Uniform Building Board of Appeals
Uniform Fire Code Board of Appeals
Water Board

IN ADDITION, MEMBERS OF THE COUNCIL ARE APPOINTED AS REPRESENTATIVES TO THE FOLLOWING:

- Cable TV Advisory Committee - IVCC/City
Convention & Visitors Bureau
Landfill Commission
Main Street Committee - CBD
Marshalltown Economic Development Impact Commission (MEDIC)
911 Commission
Senior Citizens' Committee
Sister Cities Association of Marshalltown

Please indicate why you have designated a particular Board/Commission on which you would like to serve. For instance, previous experience, expertise or interest, improvements, etc., you believe you would bring to the Board/Commission.

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Please explain your availability and any limitations in terms of meeting attendance on your year round Marshalltown residence.

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If you have a resume, please attach it to this form so that the Mayor and City Council can most effectively evaluate your interests and match you with the appropriate Board/Commission vacancy.

The City appreciates your time and volunteer spirit. This interest form will be retained for one year and if during that time you are not appointed to a City Board/Commission, you will receive a notice asking that you renew your interest in serving.

Return to: City Clerk's Office  
City Hall, 24 North Center Street  
Marshalltown, Iowa 50158  
(641) 754-5701

# **CITY OF MARSHALLTOWN, IOWA**

## **OFFICE OF CITY ATTORNEY**

TO: HONORABLE MAYOR AND MEMBERS OF THE MARSHALLTOWN CITY COUNCIL

FROM: ROGER A. NOWADZKY, CITY ATTORNEY

CC: CITY ADMINISTRATOR,  
CITY DEPARTMENT DIRECTORS

RE: PRINCIPLES GOVERNING THE CITY ATTORNEY'S LEGAL ADVICE AND SERVICES

DATE: JANUARY 14, 2002

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I write to share the principles of municipal law, which I follow as City Attorney in the practice of law on behalf of the City. I have communicated these principles before, but believe it is appropriate to discuss them again, with the swearing in of a new City Council. It is important that all understand my role as it relates to both elected and appointed officials of this City.

The function and operation of the Office of City Attorney under my direction as City Attorney rests upon the City's Home Rule power. Under this principle, the City has full constitutional authority to determine its local affairs and government unless there is a specific state law governing such matters. Thus, the first task of the Office of City Attorney in assisting the City Council, the City Administrator, and the department heads in achieving the City's lawful goals and objectives, is to ascertain whether the matter is one of local affairs and government and, if so, whether there is any state law which is controlling. If there is, the City's actions cannot, in its exercise of its home rule powers, be inconsistent with the state statute.

It is extremely important that this Office be ever vigilant to maximizing the City's exercise of its home rule powers. To this end, this Office must explore all avenues of legal research and reasoning to determine the lawful means by which the City can achieve its objectives.

The role of the City Attorney is to give the City the best legal advice and counsel under the circumstances presented. There are differing models as to the role and function of the Office of City Attorney. I have adopted a model that I believe is appropriate from my experience with the office. Under the model I have adopted, I believe that it is not the function of this Office to make policy determinations which are by their nature to be made by those responsible for the City's administrative or legislative functions. As City Attorney, I will channel administrative questions and information to the appropriate City administrative staff for determination and resolution. As City Attorney, I will attempt to avoid becoming involved in the politics of an issue. Legal advice and legal opinions given by the City Attorney will be based upon established municipal law and general law principles and an honest and balanced assessment as to the state of the law, without regard for the political consequences, which may or may not result.

When consulted, the City Attorney's initial responsibility is to determine to the extent possible, whether a proposed City action can be lawfully undertaken. If it cannot be, it is the City Attorney's responsibility to clearly and emphatically inform the client. If the law is not clear with respect to the proposed action, as may frequently be the case, it is the City Attorney's best judgment as to the likely determination by the court or agency having jurisdiction, which must be conveyed to the client. Although it is not the function of the City Attorney to render a legal opinion on the wisdom, as opposed to the legality, of a proposed

action, it is fundamental to effective legal representation that the City Attorney describe as accurately as possible to the client the legal consequences of a proposed action and to identify the foreseeable risks in that course of action. The responsibility for making such decision and taking such risks remains, of course, with the client. However, if for legal reasons the City attorney believes that one course of action is more prudent than another, I believe it is appropriate and desirable to make a specific recommendation.

In staffing, City Council meetings and open meetings of city boards and commissions, the City Attorney must be diligent in avoiding being drawn into the debate as to the policy merits of proposals discussed at such meetings. Likewise, when legal questions are asked of counsel in open session whose answer would prejudice the position of the City, the City Attorney is obligated to weigh this consequence in the decision whether to respond. While this may give the appearance that the City Attorney is unknowledgeable on a topic or even inept, under certain circumstances, it may be that even responding to the extent of stating why it is not appropriate to answer the question in open session is not good legal representation. This is not to say the City Council or boards and commissions should be discouraged in requesting legal advice that aids the Council or a board or commission in their policy-making roles. It does, however, reinforce the goals of the City Attorney to anticipate legal questions and to advise in a confidential format when necessary.

As an attorney, the City Attorney is directed by the Code of Professional Responsibility in decisions to preserve or disclose client secrets and confidences. Moreover, the City Attorney is mindful that certain meetings, including City Council meetings, are broadcast and taped. Because they are taped, any "admission" made at the meeting is preserved on tape for replay by anyone who may wish to sue the City. On those occasions where the City Attorney may appropriately respond, but is not certain of the answer to the question, the City Attorney will so advise the Council, board or commission. Municipal law encompasses so many areas of law, which are ever growing and changing that no one can be expected to field every question that may arise at the council table. The precise answer many times turns on the application of law to the particular facts, which entails research as to the law, and the facts of the situation. Under such circumstances, the City Attorney will respond honestly if I am not certain of the answer, but will offer to respond as quickly as possible in researching the answer.

The City Attorney recognizes that the public policy of the State is that City records and meetings be open to the public. The City Attorney will be diligent in advising clients as to the necessity of strict compliance with these statutes, including the personal sanctions provided for violation of the law. The City Attorney will carefully protect the confidentiality of communications in the attorney-client relationship, which are privileged under law. The legislature has recognized and protected from disclosure and access information regarding strategy in matters in litigation where prejudice and disadvantage to the City position would occur with disclosure as well as other situations where confidentiality must be protected. To this end, the City Attorney will recommend closed sessions or undertake other legal measures to protect confidentiality as appropriate.

Respectfully submitted,

Roger A. Nowadzky,  
City Attorney

## **COMPLAINTS & REFERRALS**

The following is an updated list of general complaints frequently received by the City and the office responsible for following up on these matters. Before making a referral it is important to keep in mind that there are certain persons to whom citizens should not be referred. These are persons primarily functioning as judges or what is called a "quasi-judicial" capacity. Persons serving in a quasi-judicial capacity are typically members of boards and commissions who are volunteers. They include members of such boards as the Planning & Zoning Commission, Board of Adjustment, and Civil Service Commission. These persons are not employees of the City, but volunteers who make decisions pursuant to ordinances. These decisions are to be made in a public forum and not privately through personal contact or otherwise. Therefore, it is inappropriate to refer any citizen directly to a member of any of these boards. Iowa case law (*Rodine v. Zoning Board of Adjustment*, 434 N.W. 2d 124 (Iowa App. 1988)) established that members of public boards act as judges concerning public matters, and therefore it is inappropriate to contact them outside of the public hearing. Any information or opinion, which any citizen desires to communicate, should be done at the public meeting of the body involved and not through private telephone or personal contacts.

COMPLAINT	REFERRAL	TELEPHONE
<b>ANIMALS</b> Barking dogs, illegal keeping of animals, vicious animals, cats or dogs at large (After 5:00 P.M. & weekends)	Police Department	754-5725
Cats/dogs at large (Before 5:00 P.M. weekdays)	Animal Rescue League	753-9046
<b>BUS SCHEDULES</b> City bus and service	Transit Director	754-5719
<b>CITY TAXES</b> Assessments & City tax questions	County Assessor	754-6305
<b>CIVIL RIGHTS</b> Complaints	Marshalltown Human Rights - Lee Haupt	752-0287
<b>EASEMENTS</b> Locating City easements	City Engineer	754-5734
<b>HOUSING</b> Fire safety & rental inspection	Fire Department - Housing Inspection	754-5729
<b>JUNK CARS</b>	Police Department	754-5729
<b>NUISANCE ABATEMENT</b> Weeds/unmowed lawns/junk cars, front yard parking	Nuisance Abatement	754-5759

COMPLAINT	REFERRAL	TELEPHONE
<b>PARKING PROBLEMS</b>	Police Department	754-5759
<b>PERMITS</b> Parking & Parking fines Building Permits	City Clerk Building Inspector	754-5701 754-5737
<b>RECYCLING</b> Landfill Recycling questions Recycling trees, brush, etc.	Solid Waste Management WPCP Compost Facility	754-0646 754-5709 754-5725
<b>RENTALS</b> Park or shelter House	Park & Rec	754-5715
<b>SEWER</b> Problems with sewer  Locations of sewer	WPCP Sewer Department City Engineer	754-5709 754-5749 754-5734
<b>SIGNS</b> Missing or damaged	Street Department City Engineer	754-5748 754-5734
<b>SNOW</b> Removal	City Engineer Nuisance Officer	754-5734 754-5759
<b>TREES</b> Dead or diseased trees on city terrace	Park & Rec	754-5715
<b>WATER PROBLEMS</b>	Water Department	753-7913
<b>WEEDS</b> Unmowed/Obnoxious	Nuisance Abatement	754-5759
<b>ZONING</b> Fences, variances, special use permits, building locations	Zoning Administrator	754-5756

**MUNICIPAL INFRACTIONS**

INFRACTION	ORDINANCE/CODE SECTION	DEPARTMENT
Garbage or recyclables on curb	#114472	Water Pollution Control Plant
Pushing snow on to street	26-3	Public Works
Snow on sidewalk for more than 10 hours	26-1	Public Works
Vehicles parked on City terrace	20-180	Police Department
Vehicles parked in alleys, unless unloading	20-182	Police Department
Junk cars on public or private property, inoperable or unlicensed	21-6(n)	Police Department/ Nuisance Abatement
Abandoned cars on street or alley more than 24 hours	20-178	Police Department
Adjacent owner to maintain City terrace	26-4	Fire Department or Park & Recreation
Vehicles Parked in Front Yard in any area zoned residential	#9366 (Art. V., Sec 3(1))	Police Department Nuisance Abatement
Leaves or grass pushed into gutters or street		Water Pollution Control Plant
Sidewalk repair	26-51 to 26-55	Public Works
<b>NUISANCES REQUIRING WRITTEN NOTICE TO ABATE:</b>		
Noxious smells, injurious to health	21-61(a)	Water Pollution Control Plant
Emission of smoke, fumes, fly ash	21-61(k)	Fire Department, Water Pollution Control Plant
Dense growth of weeds or unmown grass	21-61(l)	Nuisance Abatement
Inoperable unlicensed vehicle	21-61(n)	Police Department Nuisance Abatement
Garbage, trash	21-61(l)	Nuisance Abatement
Dangerous or diseased trees	21-61(l)	Park & Recreation