

**MANUAL  
FOR  
NEWLY ELECTED OFFICIALS**



*Growing Our Communities Together*

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## INTRODUCTION

Welcome to municipal government! Participating in the governance of one's community is a rewarding yet challenging endeavor. The Missouri Municipal League can be resource for municipal officials who need assistance. The League's web site [mocities.com](http://mocities.com) provides a plethora of information from samples ordinance to FAQ's to online versions of the Missouri Municipal Review. For over fifty years, the Missouri Municipal League has sponsored an annual training conference for newly elected municipal officials. Officials in League member municipalities can utilize the League's inquiry service (573-635-9134 or [info@mocities.com](mailto:info@mocities.com)) to get questions answered

Because municipal government continues to become more complex, with additional services and with requirements imposed by higher levels of government, the demands on the knowledge and expertise of newly elected officials have increased significantly. Municipal governments are involved with housing rehabilitation, energy conservation, community centers, workforce development, economic development, emergency medical services and many other service programs. Both the state and federal governments continue to expand rules, regulations and guidelines in areas such as water and air pollution, drinking water standards, ambulance services, public employee relations, and open meetings and records requirements. New officials must become familiar with these requirements, as well as the more traditional municipal activities.

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

Throughout the manual, we use the term "city council" to refer to the city governing body, but the reader should substitute "board of aldermen," "board of trustees" or "commission" when appropriate for their particular class of city. In the same manner, "municipality" is used to refer to cities and villages. When the term "city" is used it typically is meant to include only 3<sup>rd</sup> class, 4<sup>th</sup> class, special charter and home rule cities while excluding villages.

The League wishes to thank attorney Mel Gilbert for his assistance in reviewing this 2015 edition of the *Manual for Newly Elected Officials*. Thanks also to Joan Jadali, Director of Finance/Assistant City Manager of Webster Groves, for reviewing the finance section.

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

## LOCAL GOVERNMENT IN MISSOURI

### Municipalities in the Federal System

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

Many citizens view American federalism as a layer cake with local governments at the base, state governments in the middle, and the national government at the top. This view implies that governmental activities are parceled out to one of these layers: for example, municipalities provide sewage treatment, states maintain universities and the national government maintains the national defense. It also suggests a strong line of control and oversight with the Federal government dictating the conduct of the States and the States in turn firmly controlling the policies of local governments.

However, in practice, American federalism has been characterized by far more cooperation, coordination and sharing of responsibilities than by separation. The traditional view of American federalism simply does not conform to reality. A far more accurate image is the rainbow or marble cake, characterized by an inseparable mingling of differently colored ingredients, the colors appearing in vertical and diagonal strands and unexpected whorls. As the colors are mixed in the marble cake, so functions are mixed in the American federal system.

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

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

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

## County Government

Missouri's 114 counties are subdivisions of the state with their governmental structure and responsibilities specified by state law. Counties, with the exception of the four home rule counties have no inherent or reserved powers of their own, but only those powers granted to them by the Missouri Constitution or statutes.

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

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

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

The township form of government, which still exists in 22 counties, serves to further fragment county government. Each county with this structure is divided into seven to 24 administrative townships for a total of 312 townships. Each township has the following officials: a three-member policy board, a clerk-assessor and a collector. The township functions are: road construction and maintenance, property assessments, tax collection and township elections. The township structure is extremely inefficient and ineffective, but has proven difficult to abolish because of the many officeholders involved.

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

- Class I – more than \$900 million for a five-year period,
- Class II – between \$600 million and \$900 million for a five-year period,
- Class III – less than \$600 million for a five-year period, and

Class IV –Classification II counties, which would otherwise return to Classification III because of changes in assessed valuation, but which attained Classification II prior to August 13, 1988 and operate under the laws of Classification II.

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

### **Special Districts**

Missouri, long known as the “Show-Me State,” could be referred to as the “Special District State.” We have the dubious distinction of having 1,850 special districts according to the 2012 US Census of Governments. These special districts are political subdivisions of the state charged with performing some 20 different functions, such as roads, fire protection, street lighting, ambulance service, water supply, water conservation, river levees, maintenance, hospitals, nursing homes, sewers, drainage and libraries, under 28 different statutory authorizations.

The bulk of these special districts are road districts that may be formed in any county, except Jackson County and St. Louis County. We have more than 250 special road districts in Missouri. These districts are formed for the purpose of ensuring that the bulk of road and bridge tax revenue collected in an area is spent within that area. Most road districts were formed because the county did not perform the amount of work on the roads that was desired by the citizens of an area. Many of these special road districts are quite small, some maintaining only a mile of roadway. State laws have been enacted requiring some of the larger counties to expend road and bridge revenues collected within municipalities on streets within these municipalities. Generally, these laws require the county to spend at least 25 percent of the funds collected within the municipality on streets designated by the city council. The Missouri Municipal League has supported similar legislation on a statewide basis. Such legislation would strike at the basic cause for fragmenting road administration into special road districts.

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

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

## Municipal Government

- **Incorporation**

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

- **Classification of Municipalities**

<u>Class</u>	<u>Population Requirement</u>	<u>Total Number</u>
Class 3	3,000 - 29,999 inhabitants	56
Class 4	500 - 2,999 inhabitants	525 (approx.)
Village	fewer than 500 inhabitants	300 (approx.)
Constitutional Charter	more than 5,000 inhabitants	42
Legislative Charter	no requirement	6

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

In 1875, the Missouri Constitution led the nation in providing that the state's largest municipalities could provide their own structure of government by drafting home rule charters for approval of the voters. For many years, St. Louis and Kansas City were the only constitutional charter cities in the state. In 1946, the voters approved a constitutional amendment to permit home rule status for municipalities with a population of over 10,000. Since 1946, 40 municipalities have drafted and adopted home rule charters, in addition to the previously adopted charters in St. Louis and Kansas City. In 1971, the voters approved another amendment that broadened home rule powers and lowered the population requirement from 10,000 to 5,000.

The 42 constitutional charter or home rule cities have selected a wide variety of governmental structures. Although many home rule cities have adopted the council-manager form, others provide for the mayor-council form or the mayor-city administrator-council form.

- **Forms of Municipal Government**

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

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

<u>Forms Of Government In Missouri Municipalities</u>	
	Appr. # of
Mayor-Council	750
Mayor-Administrator-Council	135
Council-Manager	35
Commission	1
*Includes villages that have a chairman and board of trustees.	

## A. Mayor-Council Form

The mayor-council form (also known as the mayor-board of aldermen form in fourth class cities) is the most common form of municipal government in Missouri, as in other states. This form can be found in all classes of Missouri Municipalities. Under the mayor-council form, the mayor is considered the chief executive officer of the city and is generally in charge of the city's day to day operations within the policy parameters set by the city council. The mayor typically appoints the city's top administrative staff (such as police chief, finance officer, utility superintendent and others) subject to approval by the council, and the administrative officials are directly responsible to the mayor and council. It is important to note that typically the city clerk is appointed directly by the legislative body (i.e. city council, board of aldermen).

In Missouri, the state statutes provide the option of electing numerous administrative officers in both third and fourth class cities. While some cities still elect their Marshal, Collector and a few other positions, most cities have moved away from this system. As mentioned with county governments, having multiple elected administrative positions leads to fragmented municipal departments and difficulties when trying to centralize and prioritize municipal activities.

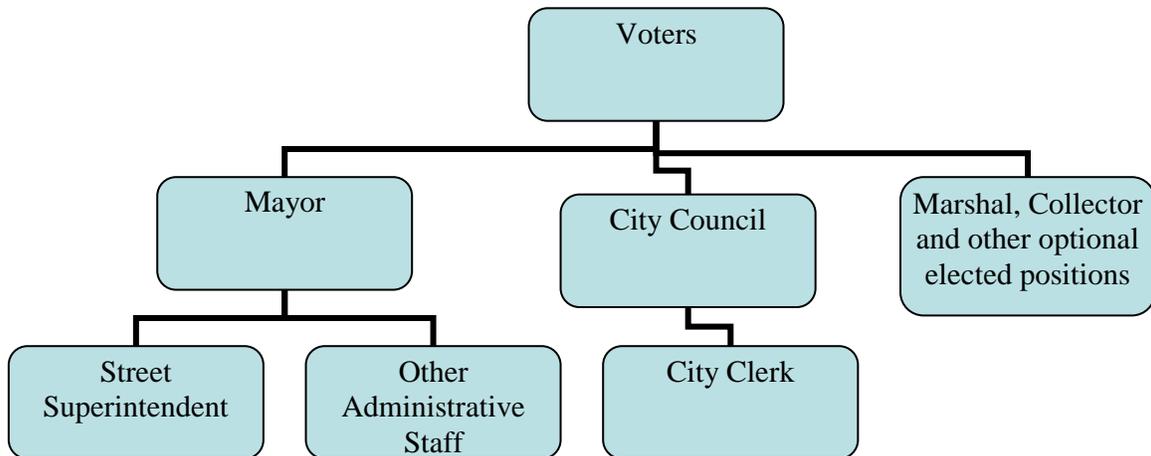
The next sections describe the variations on the Mayor-Council form depending on the classification of the municipality.

### 1) Third Class Cities Mayor-Council Form

The system of government for Missouri 3<sup>rd</sup> class mayor class form is prescribed in Chapter 77 of the Missouri revised statutes. In third class cities with the mayor-council form, the voters elect a mayor to a four-year term, and councilmembers from wards to two-year terms or four-year terms. Use of the four-year term option requires voter approval. Third class cities must have at least four wards and have the option of electing either one or two councilmembers from each ward.

### ORGANIZATION CHART

#### Third Class Cities: Mayor-Council Form



2) Fourth Class City Mayor-Board of Aldermen Form

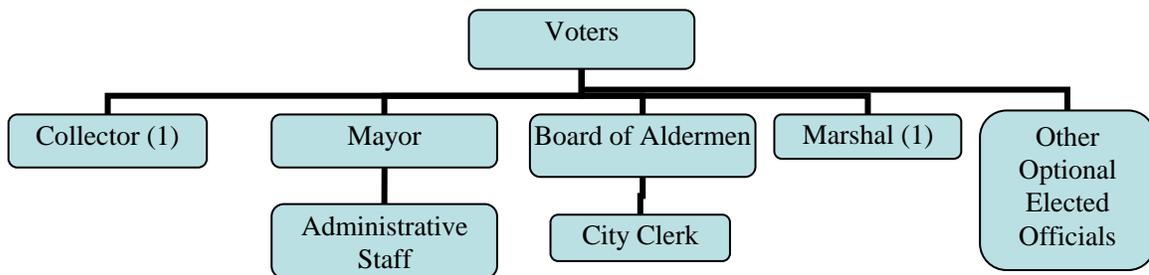
The system of government for Missouri 4<sup>th</sup> class cities is prescribed in Chapter 79 of the Missouri Revised Statutes. In 4<sup>th</sup> class cities the mayor is elected at large to either a two-, three- or four-year term. Aldermen are elected from wards to two- or four-year terms. Changing the length of terms for either position requires voter approval. Fourth class cities with a population under 1,000 may opt to abandon the ward system and elect all aldermen at-large. This option does not require voter approval. The board of aldermen may provide that some official position with the city be elected by the people. These positions include: city assessor, city attorney, city clerk and street commissioner. A marshal (chief of police) and a city collector must be elected by the voters unless the voters approve that these positions be appointed by the mayor and board.

The mayor, with the approval of the board of aldermen, has the authority to appoint a treasurer, city attorney, assessor, street commissioner and night watchman, and such other officers as authorized by ordinance. Appointed officers may be removed by the mayor at will with the consent of a majority of all the members of the board of aldermen or without the mayor's approval or recommendation if approved by a two-thirds vote of all the members elected to the board of aldermen.

Elected officers may be removed from office, for cause shown, by the mayor with the consent of a majority of all the members elected to the board of aldermen. Elected officials may also be removed without the mayor's approval if two-thirds of all members elected to the board of aldermen vote for the removal. In either case, elective officials first must be given an opportunity, together with witnesses, to be heard before the board of aldermen sitting as a board of impeachment. State law does not provide for citizen initiated recalls in fourth class cities.

**ORGANIZATION CHART**

Fourth Class Cities: Mayor-Council Form



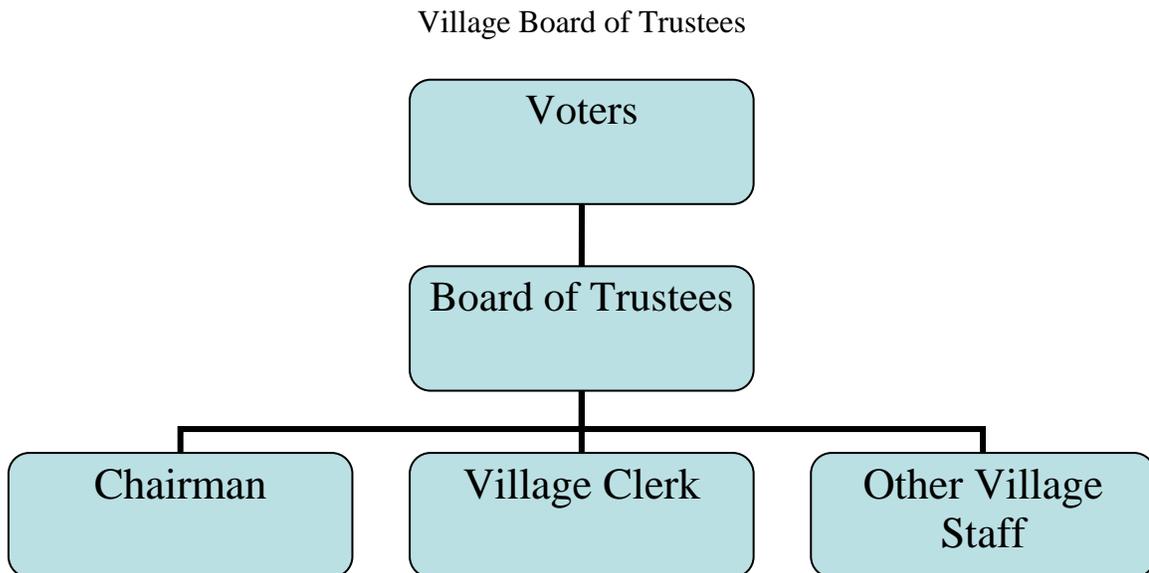
*(1) The board of aldermen may provide by ordinance, after approval by the voters, for the appointment of these officials.*

3) Villages: Chairman-Trustee Form

Villages are permitted by Missouri statutes to have only one form of government – an elected board of trustees. In villages under 2,500 population, the board of trustees consists of five members, and in villages over 2,500 population, the board may consist of nine members. The trustees are elected to two-year terms. The trustees select one of their members to serve as chairman and another person to serve as village clerk. If there is a vacancy in the office of chairman, the remaining members select one of their own as temporary chairman and then proceed to elect someone to fill the vacancy; provided, the chairman or temporary chairman has no vote except in case of a tie.

The chairman is required to publish a semiannual financial statement of all receipts and expenditures. The board of trustees is granted statutory authority to pass ordinances in more than 40 specified areas. The board has the power to appoint an assessor, collector, marshal, treasurer and such other officers as may be necessary; to remove them from office; to prescribe their duties; and to fix their compensation. The board may provide by ordinance for either the appointment or election of a municipal judge. The village form of government is relatively easy to chart: the voters elect the board of trustees, which appoints the other municipal officials.

**ORGANIZATION CHART**



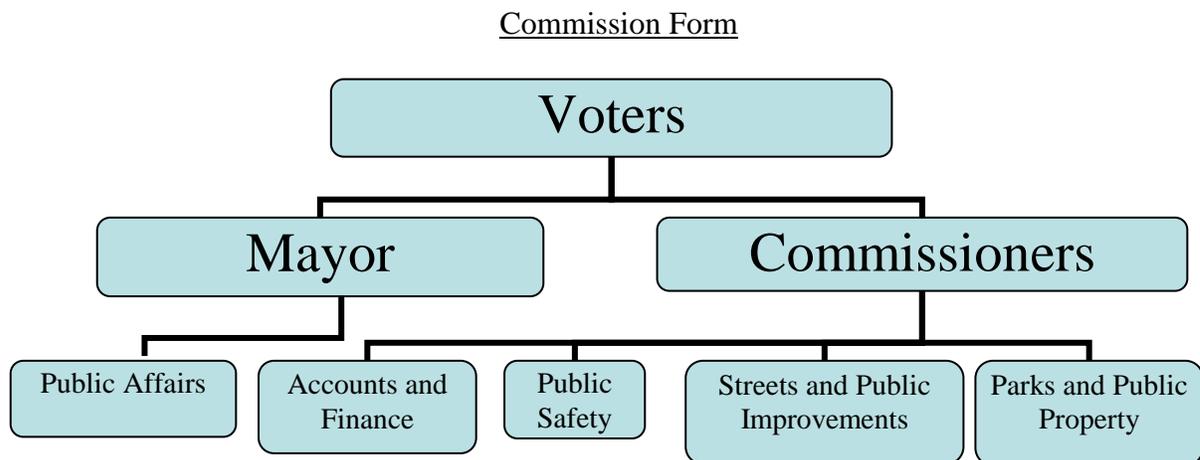
## B. Commission Form

At the present time, only the municipality of Monett operates with the commission form. Fourth class cities and villages do not have the option of using the commission form. Chapter 78 of the Missouri revised statutes details the operations for 3<sup>rd</sup> class cities with a commission. Home rule charter cities could be set up with a commission form; though none have done so. Under the commission form of government, each member of the city council, referred to as the commission, directly heads or supervises an administrative department. Thus, the commissioners serve a dual capacity: as the municipal legislative body, they formulate municipal policy; as individuals, they serve as administrative heads of the various departments. The voters elect a mayor who presides at meetings of the commission, but the mayor typically does not have significant power over the operations of the other commissioners' departments.

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

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

### ORGANIZATION CHART

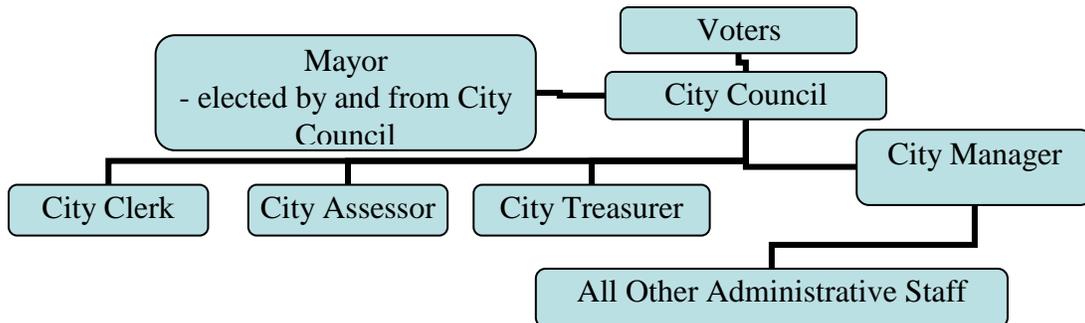


### C. Council-Manager Form

The council-manager form is only available to 3<sup>rd</sup> class and home rule charter cities. Chapter 78 of the Missouri Revised Statutes details the operations for 3<sup>rd</sup> class cities with the council-manager form of government. Many home rule charter cities utilize the council-manager form and the city charter will typically outline the foundation for the system. Under the council-manager form there is a differentiation between the policy making function of government and the administrative function. The voters elect the city council and it is the council's function to formulate municipal policy. The council also appoints the city manager who is responsible to the council for the administration of the city government. The manager has the responsibility to prepare the city budget for council approval and also to execute the budget after adoption. Under the council-manager plan, the mayor presides over council meetings and serves as the city's ceremonial and political leader but has no administrative authority or veto power. The city manager serves at the discretion of the council, which may hire and fire the manager at will, not merely for cause. Typically, an employment agreement will provide severance benefits to managers who are dismissed before the end of the agreement's term. The council-manager form provides clear lines of authority and responsibility with the city manager as chief executive officer who can be held strictly accountable for municipal operations.

#### ORGANIZATION CHART

##### Council-Manager Form



Missouri statutes (Chapter 78, RSMo) require that 3<sup>rd</sup> class council-manager cities have a city council consisting of five councilmen who are elected at-large to three-year terms. There is also an optional form in which seven councilmembers are elected: five from wards and two at-large. The city council must elect one of its members as mayor and another as chairman pro tem each for a term of one year. The mayor presides at all meetings of the council and has a voice and vote in council proceedings, but no veto power. The mayor is recognized as the official head of the city for legal and ceremonial purposes. This more limited mayoral power arrangement is often referred to as a “weak mayor system”. When the mayor temporarily is absent or disabled, his duties are performed by the chairman pro-tem. The city council must appoint a city manager, city clerk, city assessor and city treasurer. All other officers and employees of the city must be appointed and discharged by the city manager, but the council retains power to adopt and modify personnel rules and regulations.

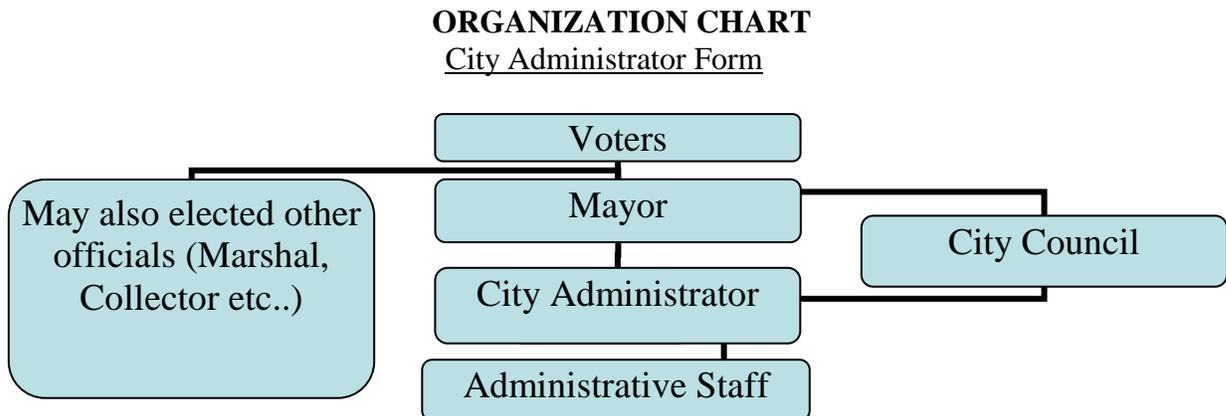
#### D. City Administrator Form

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

The city administrator form is available to 4<sup>th</sup> class, 3<sup>rd</sup> class and home rule charter cities. In 3<sup>rd</sup> and 4<sup>th</sup> class cities, no petition or vote of the citizens is needed to utilize the city administrator form; it is adopted simply by ordinance of the governing body. Home rule cities typically would need to amend the city charter to move to a city administrator form. State statutes do not provide villages with the authority to employ a city administrator.

The city administrator is employed by the governing body with the approval of the mayor. The administrator serves as the chief administrative assistant to the mayor and has general superintending control of the administration and management of city business and municipal employees, subject to the direction and supervision of the mayor and city council. When the governing body adopts a city administrator ordinance, they may provide that all other officers and employees of the city, except elected officers, may be appointed and discharged by the city administrator, subject to reasonable rules and regulations of the governing body.

Similar to the city manager, the city administrator serves at the pleasure of the governing body and may be dismissed at any time. In most cities, an employment agreement will provide severance benefits to administrators who are dismissed before the end of the agreement's term.



## **THE OFFICE OF MAYOR**

### **Introduction**

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

The actual powers and duties of the mayor depend on the classification of the municipality, the form of government and local ordinances and policies of the municipality. In many fourth class cities and some third class, the mayor should be considered the city's chief executive officer charged with running the day to day operations for the city. In other cities there may be appointed staff such as a city administrator who carries out most of the day-to-day decision making. In cities with a city manager, the manager is by definition, the chief administrative officer for the city.

### **Election and Tenure of the Mayor**

#### **A. Villages**

There is no person with the title of "mayor" in a village. The only title that comes close is "chairman of the board of trustees." Often, the inhabitants of the village and the members of the board of trustees will fall into the habit of calling the chairman of the board the mayor. The chairman of the board is selected by the members of the board from among their number and holds office for one year.

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

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

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

In third class cities (not having the council-manager form), the mayor is elected by popular vote to a four-year term.

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

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

## **Qualifications of the Mayor**

### **A. Villages**

The chairman in a village needs the same the qualifications necessary to become a trustee (21 years of age, US Citizen, inhabitant at time of election and 1 year prior).

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

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

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

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

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

The qualifications for the mayor of a third class council-manager city is the same as for any other member of the city council (21 years of age, US citizen, inhabitant at time of election and resident 1 year prior).

## **Additional Requirements**

- § 115.306, RSMo. States “No person shall qualify as a candidate for elective public office in the state of Missouri who has been found guilty of or pled guilty to a felony or misdemeanor under the federal laws of the United States of America or to a felony under the laws of this state or an offense committed in another state that would be considered a felony in this state.
- § 115.306, RSMo also requires each potential candidate for election to a public office to file an affidavit with the department of revenue affirming that they are not currently aware of any delinquency of any state income taxes, personal property taxes, municipal taxes, real property taxes.
- § 79.250, RSMo which applies to elected officers in fourth class cities states “No person shall be elected or appointed to any office who shall at the time be in arrears for any unpaid city taxes”
- § 77.380, RSMo which applies to elected officers in third class cities states “No person shall be elected or appointed to any office who shall at the time be in arrears for any unpaid city taxes, or forfeiture or defalcation in office.”

## **Removal from Office of the Mayor**

§561.021. RSMo. provides that any public office holder who is convicted of a felony while in office shall forfeit such office.

### **A. Villages**

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

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

The mayor of a fourth class city may be removed from office “for cause shown” by two-thirds vote of all the members elected to the board of aldermen (§79.240, RSMo). The mayor does not vote on this question, and his approval is not required. For the removal of the mayor from office, it appears that the mayor must be “first given opportunity, together with his witnesses, to be heard before the board of aldermen sitting as a board of impeachment.” Cities considering the impeachment process are advised to consult the city attorney as to whether cause exists and on how to conduct the process.

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

In a third class city, the mayor may be removed from office for cause shown upon a two-thirds vote of all the members elected to the city council (§77.340, RSMo). The mayor does not vote, and his approval is not necessary. Cities considering the impeachment process are advised to consult the city attorney as to whether cause exists and on how to conduct the process. The mayor or any elected city official may be subject to a recall election if petitions are signed by 25 percent of the registered voters (§77.650, RSMo).

## **Statutory Duties of the Mayor**

### **A. Villages**

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

- 1) Presides at the meetings of the board and is permitted to vote on any proposition that comes before the group, with the exception given in §80.230, RSMo regarding vacancies.
- 2) Calls special meetings of the board at any time (§80.060 RSMo).

3) Signs all ordinances of the city. §80.110, RSMo provides that all ordinances shall be in full force and effect from and after their passage after being duly signed by the chairman of the board of trustees. The statute does not provide the chairman with veto power.

4) Causes to be printed ordinances passed by the board “for the information of the inhabitants.” §80.120, RSMo. The statutes do not say what happens if the chairman fails to publish an ordinance; it is possible the ordinance would be unenforceable without the publication.

5) Causes the ordinances of the city “to be carried into effect.” The chairman’s ability to do this depends on the support he receives from the board.

6) §80.210, RSMo provides that the chairman shall semiannually make out a correct statement of all moneys received and expended on account of their respective towns during the six months next preceding; and shall cause such statement, within ten days thereafter, to be published. Generally the village clerk will carry out this duty.

## **B. Fourth Class Cities**

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

1) May veto any ordinance passed by the board of aldermen although the veto may be overridden by two-thirds of the members of the board. (§79.140, RSMo)

2) Has a seat in and presides at all meetings of the board of aldermen, although he shall not have a vote, except in the case of a tie. (§79.120, RSMo)

3) Signs all “orders, drafts and warrants drawn on the city treasury for money and causes the city clerk to attest the same.” (§95.365, RSMo)

4) Signs the commissions and appointments of all city officers elected or appointed in the city. (§79.190, RSMo)

5) Approves all official bonds of officers of the city, unless otherwise prescribed by ordinance. (§79.190, RSMo)

6) Is authorized to call on every male inhabitant of the city over 18 years of age and under 50 to aid in enforcing the laws. (§79.200, RSMo)

7) Has the power to “communicate to the board of aldermen” and recommend any measures he thinks will be in the best interest of the city. (§79.210, RSMo)

8) Appoints officers of the city, subject to the approval of the board of aldermen (§79.230, RSMo). The exception is the city clerk who is selected by the board of aldermen without nomination from the mayor (§79.320, RSMo).

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

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

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

12) May require any officer of the city to exhibit their accounts or records (§79.350, RSMo).

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

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

1) Has a line item veto of any general appropriation bill; that is, he can approve all the payments, except for one or two that he does not like (§77.270, RSMo).

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

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

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

1) Presides at all meetings of the council.

2) May vote on all bills and resolutions.

3) Has no veto power at all.

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

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

6) Can call special meetings of the city council. Two members of the council may also call a special meeting upon written application.

## **E. Customary Duties**

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

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

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

## **THE OFFICE OF COUNCILMAN**

### **Introduction**

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

It is the council body that possesses the authority, not the individual councilmember. Councilmembers must act as a group for a decision to be legally enforceable. In general, individual councilmembers have no authority to direct city staff or issue policy directives unless specifically authorized by the entire council. The power of the councilmembers is carried to fruition at city council meetings.

### **Election**

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

#### **A. Villages**

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

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

The members of the city council of a fourth class city are called “aldermen,” and there can be as few as four aldermen or as many aldermen as the city wishes to have. The city is divided into “wards” at the discretion of the board, and two aldermen are elected from each ward. Two or three wards are typical. Aldermen hold office for two years (or four years if approved by a vote of the people), with staggered terms.

Fourth class cities, with a population of less than 1,000, have the option of electing their aldermen “at large” rather than from wards (§ 79.060, RSMo). Moving to this system does not require a vote of the people. Sample ordinances are available from MML.

Municipalities, with a population of less than 1,000, have the option of not having an election for city offices if the number of candidates who file equals the number of positions to

be filed. Voters must approve this and further must reauthorize it every six years to keep the option in place. Sample ordinances to utilize this option are available from the MML.

**C. Third Class Cities**

Third class cities have a legislative body known as the “city council.” Provisions for elections and terms may be found in §77.030, RSMo. The city is required to have at least four wards. There may be either one or two councilmembers in each ward. Terms for councilmembers are either two or four years.

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

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

Summary of Legislative Branch by Municipal Classification

Classification	Name of Legislators	Number of Officials	Terms	Wards
Villages	Trustees	5 or 9	2 year	At Large
4th Class	Aldermen	at least 4	2 or 4 year	At least 2 wards; under 1,000 have option of At-Large
3rd Class Regular	Councilmember	at least 4	2 or 4 year	Must have at least 4 wards
3rd Class City Manager	Councilmember	5 or 7	3 year	At Large or Hybrid At- Large and Ward

**Qualifications**

**A. Villages**

No person can be a trustee unless he is at least 21 years old, a citizen of the United States, inhabitant of the village in which he is elected, and has lived there for one entire year immediately preceding his election (§80.050, RSMo).

## **B. Fourth Class Cities**

A member of the board of aldermen of a fourth class city must be 18 years of age, a citizen of the United States, and an inhabitant and resident of the city for at least one year preceding his election, and a resident at the time he files and during the time he serves, of the ward from which he is elected (§79.070, RSMo).

## **C. Third Class Cities**

A councilman in a third class city must be at least 21 years old, a citizen of the United States, and an inhabitant of the city for one year immediately preceding the election. In addition, he must be a resident of the ward from which he is elected for six months immediately prior to the election (§77.060, RSMo).

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

The requirements for a councilman in a third class council-manager city are the same as for any other third class city, except that there is no requirement that the councilman be a resident of the ward unless councilmembers are elected from a ward under the optional hybrid system.

## **Additional Qualification Requirements**

- § 115.306, RSMo. States “No person shall qualify as a candidate for elective public office in the state of Missouri who has been found guilty of or pled guilty to a felony or misdemeanor under the federal laws of the United States of America or to a felony under the laws of this state or an offense committed in another state that would be considered a felony in this state.
- § 115.306, RSMo also requires each potential candidate for election to a public office to file an affidavit with the department of revenue affirming that they are not currently aware of any delinquency of any state income taxes, personal property taxes, municipal taxes, real property taxes.
- §79.250, RSMo (4<sup>th</sup> class) - “All officers elected to offices or appointed to fill a vacancy in any elective office under the city government shall be voters under the laws and constitution of this state and the ordinances of the city except that appointed officers need not be voters of the city. No person shall be elected or appointed to any office who shall at the time be in arrears for any unpaid city taxes, or forfeiture or defalcation in office.”
- §77.380, RSMo (3<sup>rd</sup> class) - “All officers elected to offices or appointed to fill a vacancy in any elective office under the city government shall be voters under the laws and constitution of this state and, except appointed officers, must be residents of the city. No person shall be elected or appointed to any office who shall at the time be in arrears for any unpaid city taxes, or forfeiture or defalcation in office.”

## **Removal from Office**

§561.021. RSMo. provides that any public office holder who is convicted of a felony while in office shall forfeit such office.

### **A. Villages**

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

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

An alderman in a fourth class city can be removed from office “for cause” shown by the mayor with the consent of a majority of the board of aldermen, or without the concurrence of the mayor with a vote of two-thirds of the members of the board of aldermen (§79.240 RSMo).

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

A member of the city council may be removed by the mayor with the concurrence of a majority of all the members elected to the city council. It takes two-thirds of the members of the city council to remove a councilman if the mayor does not agree (§77.340, RSMo). The councilmen or any elected official under the mayor-council form may be recalled by the voters if petitions are signed by 25 percent of the registered voters (§77.650, RSMo).

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

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

## **Statutory Duties of Councilmen (applies to all forms and classifications)**

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

A. The principal purpose of any city council is to create the laws by which the city operates; these laws are called “ordinances.” In fourth class cities and third class cities (except 3<sup>rd</sup> class council-manager or commission cities), the mayor can veto any ordinance, and it takes a two-thirds vote of the governing body to override that veto. Chairmen in villages as well as mayors in a 3<sup>rd</sup> class city manager city or 3<sup>rd</sup> class commission city have no veto authority. The authority of any particular city council to enact ordinances is closely restricted by state law. In general, it may be said that villages do not have as much authority as third and fourth class cities. Neither third nor fourth class cities have as much authority as a home rule city.

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

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

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

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

2) The mayor in a fourth class city appoints most officers, subject to the approval of the board of aldermen (§79.230, RSMo). The only exception is the city clerk who is "selected" by the board of aldermen (§79.320, RSMo). Some cities have an elected marshal (police chief), elected collector or other elected positions.

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

The city council in third and fourth class cities also may abolish the office of marshal and provide for an appointed chief of police. In a fourth class city, the approval of the voters is required. Fourth class cities also need voter approval to move to an appointed collector. It has become customary in some third class cities that the city council hire a "city counselor" in addition to the elected city attorney. The city counselor will advise the city council on matters of law, while the city attorney generally will represent the city in municipal court as prosecutor.

4) In third class council-manager cities, the city council selects the city manager the city clerk, city treasurer and city assessor. All other officers are appointed by the city manager (§78.600, RSMo).

## **COUNCIL PROCEDURES**

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

Missouri laws do not require a municipality to adopt rules of procedure, though they do provide that they may do so. It is common practice for a city council either to adopt such rules of its own as it may determine it needs or to provide that Roberts Rules of Order shall be its guide. For most cities, Robert's rules are more complex and extensive than needed. A condensed rules of order is included in the appendix to this chapter.

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

### **Agendas**

The Missouri Open Meetings and Records Law requires that a tentative agenda be posted twenty-four hours prior to the start of any meeting exclusive of weekends or holidays when city hall is closed (§610.020 RSMo). The law does provide an emergency provision allowing meetings to be held without the 24 hour notice in extreme circumstances. Following a written agenda provides a convenient method for conducting a meeting. Usually, this agenda will be prepared several days in advance of the meeting by the mayor, clerk or city manager and distributed to members of the council or board. This gives council members an opportunity to familiarize themselves with the pending business, to investigate items of particular interest in advance, and to check viewpoints of their constituents before making a crucial vote.

### **Parliamentary Procedure**

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

The object of parliamentary rules is to preserve decorum at the meetings. They also assist members by confining the debate and discussion to one question at a time. When in doubt about parliamentary law, a chairman should simply strive to keep order and follow the wishes of the majority. The breaking of parliamentary rules of order does not invalidate an action of the council, but it can disrupt it.

### **Conduct of Meetings**

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

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

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

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

### **Addressing the Council**

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

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

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

If decorum is maintained by the council, a citizen rising to speak naturally will follow suit. In most cases, visitors to the council who desire to speak are requested to give their names and addresses for the record. In fact, some cities require a visitor wishing to speak to fill out a prescribed form before the council meeting, giving his or her name, address and the subject on which he wishes to comment. If a councilmember desires to ask a question of the citizen after he has spoken, the councilmember should wait until the chair asks for questions or make the request directly to the chair. In no case should a councilmember rudely interrupt to ask a question. Also, there never should be any quarreling between councilmembers and citizens. Often, if a citizen is there to speak, it means she has a concern and may be angry with the council. In such a case, if the citizen cannot contain her anger, the councilmember must. And, if the situation escalates, then the chair must interrupt and take over.

### **General Discussion**

During the course of a meeting, there should be ample opportunity for the council to discuss every item on the agenda. Sometimes this discussion is not the prelude to a vote, but simply an expression of opinion or question. This type of discussion can get out-of-hand and lead to lengthy meetings and frayed nerves. Some councils have written into the Rules of Procedure a limitation on debate that allows a councilmember to speak only once on a subject until everyone else desiring to speak has had a turn and sets a time limit on any councilmember's discussion of perhaps 5 to 10 minutes.

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

### **Citizen Participation**

Citizen participation is distinguished from a public hearing. A public hearing is a formally designated time for discussion of a specific topic, from budgets to rezoning. In some cases, such as a zoning change, state law requires a public hearing. On other issues of importance such as a budget adoption a public hearing is often held though not required by state law. The citizen participation period, during a council meeting, is a time set aside for visitors to express themselves to council on any subject. Citizen participation periods are not required under state law but almost every municipality does provide for them.

Councils vary in the place on the agenda for citizen participation, and some councils do not list it as an agenda item, allowing the visitors to comment after pertinent discussions. The place on the agenda varies from the first item of business to the last. However, regardless of the

time designated, the mayor should make a point of informing visitors when they may expect to speak. If the mayor knows that an exceptionally controversial item has drawn a large crowd, they would be wise to state the time such an item is expected to come up for discussion. Woe unto the mayor and council who let a large crowd sit and wait throughout a four-hour meeting and then postpone the item that drew the crowd!

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

## **Public Hearings**

A public hearing is a formally designated time for discussion of a specific topic, from budgets to rezoning. Public hearings are an opportunity to hear citizens' concerns. In some cases, such as a zoning change, state law requires a public hearing. At the start of any public hearing the chair should state the topic for consideration. If, for instance, it is a rezoning hearing, there should be a reading of the ordinance and an explanation of what is requested.

On any subject that is controversial the following procedure should be followed: 1) proponents' presentation; 2) opponents' presentation; 3) proponents' rebuttal; 4) opponents' rebuttal. Questions from the council may be asked at any time during this process once recognized by the chair. If it simply is a hearing for the purpose of obtaining public opinion, such as on the budget, citizens should be allowed to speak in the order they request recognition. It always is the chair's right to determine the order of speakers.

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

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

The purpose of a public hearing is to present evidence on both sides of a question. The council is charged with the responsibility of weighing the evidence, and after due consideration, reaching a decision. No council decision can be made during a public hearing; such decisions are made after the close of the hearing. Further, the decisions may be put off until the following

meeting or later if more time or information is needed. In fairness to those who have taken the time to attend, it might be wise if the chair could give an indication as to when such a decision will be reached. If it is obvious that council will be able to come to a conclusion with a minimum of discussion, the decision may be made immediately after the hearing and the result announced. Otherwise, the chair should state the reason no decision will be made at that time and give a probable time for the announcement of the result.

## **Methods of Voting**

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

On roll call votes, each councilman is polled individually for his vote. Roll call votes are required when passing ordinances (Villages: §80.100, RSMo; 4<sup>th</sup> Class: §79.130, RSMo; 3<sup>rd</sup> Class: §77.080, RSMo). Many councils are polled in the same order on each roll call, whether this is by alphabetical order or by seating arrangement. However, this can place the first councilman to vote each time in a difficult position and give the last councilman an unfair advantage in always knowing what effect his vote will have on the motion. To counteract this problem, some councils have worked out systems of alternating the voting order. In some cases the order is alternated with each meeting, with each roll call at one meeting being taken in the same order. Other councils will vary the roll call with each vote, moving the top person to the bottom and all other names up one space. Occasionally, the person taking the roll is instructed to call names in random order with each vote.

## **Minutes**

Cities and villages are required by state statute to keep a record of the proceedings of the governing body. The statute (§610.020, RSMo) requires the following items at a minimum be included in the minutes:

"The date, time, place, members present, members absent and a record of any votes taken. When a roll call vote is taken, the minutes shall attribute each "yea" and "nay" vote or abstinence if not voting to the name of the individual member of the public governmental body."

It is not required to include everyone's statements in the minutes. Many city attorneys suggest that the more concise the minutes the better. The recorder, usually the City Clerk, often includes the following in the minutes of each meeting (if that is the directive of the governing body):

1. Name - Meeting of the City Council of \_\_\_\_\_, Missouri;

2. Kind of meeting (regular, work-session, adjourned or “called” meeting, the “call” should be included);
3. Place and date of meeting;
4. Officer presiding;
5. Members present;
6. Members absent;
7. Subordinate officers or guests appearing;
8. Statement of whether previous minutes were read and approved;
9. All motions made and reports given and the disposition of same;
10. The decision in each point of order arising;
11. A complete record of what is done, though not what is said, except that the remarks of any speaker at his request, or at the request of any member of the city council shall be recorded;
12. The time and place of reassembling, unless it be the regular meeting time and place; and
13. The signature of the recorder and the chairman at the time the minutes are approved.

In addition to having a clerk take notes at each meeting, some cities and villages record the audio or video of the council meetings. The recordings later may be used for transcribing or may be saved for a specified period of time in order to have a complete record of the proceedings. The Missouri Secretary of State’s retention manual requires that minutes be kept on file indefinitely while recordings are to be kept for 1 year. In some instances, a council may use a court reporter for making a record of the meeting.

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

## **Missouri Open Meetings and Minutes Law (a.k.a. the Sunshine Law)**

Having a firm understanding of the intricacies of the Missouri Open Meeting and Records law is paramount to being an effective local elected leader. All municipal officials are encouraged to read the Missouri Sunshine Law handbook cover to cover. The handbook is published by the Missouri Attorney General's office and available for free from their office (573-751-3321 or ago.mo.gov). The Attorney General's office also has speakers who will often travel around the state to speak to local leaders about the Sunshine Law. The Missouri Municipal League has online Sunshine Law training course available on its web site.

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

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

The law defines "public meeting" as "any meeting of a public governmental body...at which any public business is discussed, decided or public policy formulated, whether such meeting is conducted in person or by means of communication equipment, including, but not limited to, conference call, video conference, internet chat, or internet message board." The law further states the term "public meeting" shall not include an informal gathering of members of a governmental body for ministerial or social purposes when there is no intent to avoid the purposes of the law. This definition allows department meetings for ministerial purposes; since city departments seldom formulate public policy, it seems that all such meetings are ministerial and may be exempt from the law ((§610.010 RSMo).

The law defines "public record" as " any record, whether written or electronically stored, retained by or of any public governmental body including any report, survey, memorandum, or other document or study prepared for the public governmental body by a consultant or other professional service paid for in whole or in part by public funds, including records created or maintained by private contractors under an agreement with a public governmental body or on behalf of a public governmental body;" (§610.010 RSMo).

### **Exemptions from Open Meetings/Records**

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

1. Legal actions, causes of action or litigation involving a public governmental body and any confidential communications between a public governmental body and its attorneys (except the vote on condemnation decisions); however such items, shall be made public

upon final disposition of the matter voted upon or upon the signing by the parties of the settlement agreement,

2. Lease, purchase or sale of real estate; however, any minutes, vote or public record approving a contract relating to the leasing, purchase or sale of real estate by a public governmental body shall be made public upon execution of the lease, purchase or sale of the real estate;
3. Hiring, firing, disciplining or promoting an employee; however, any vote on a final decision, when taken by a public governmental body, to hire, fire, promote or discipline an employee of a public governmental body shall be made available with a record of how each member voted to the public within seventy-two hours of the close of the meeting where such action occurs; provided, however, that any employee so affected shall be entitled to prompt notice of such decision during the seventy-two-hour period before such decision is made available to the public.
4. Discussions between a governmental body and its representatives in preparation for negotiations with employee groups and all work products developed in preparation for negotiations with employee groups;
5. Specifications for competitive bidding, until the specifications are approved by the governing body or published bids;
6. Sealed bids and related documents, until the bids are opened or all bids are accepted or all bids are rejected;
7. Individually identifiable personnel records, except the names, positions, salaries and length of service of employees;
8. Records relating to municipal hotlines established for the reporting of abuse and wrongdoing;
9. Operational guidelines and policies developed, adopted, maintained by any public agency responsible for law enforcement, public safety, first response, or public health for use in responding to or preventing any critical incident which is or appears to be terrorist in nature; and
10. Existing or proposed security systems and structural plans of real property owned or leased by a public governmental body, the public disclosure of which would threaten public safety.

Other meetings and records must be open to the public unless otherwise provided by law.

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

## Notice of Public Meetings

The law requires each public governmental body to give notice of the time, date, place and tentative agenda of each meeting in a manner reasonably calculated to inform the public of the matters to be considered. Reasonable notice includes making copies of the notice available to any representative of the news media who requests notice of a particular meeting and posting the notice at a prominent place that is easily accessible to the public and clearly designated for that purpose at the principal office of the governing body, or, if no such office exists, at the meeting place. Notice must be given at least 24 hours, exclusive of weekends and holidays when the facility is closed, prior to any meeting of a governmental body unless for good cause such notice is impossible or impractical. In such cases, officials must give as much notice as is reasonably possible. In addition, §67.2725, RSMo requires a four day notice be provided prior to any tax increase, or retail development project when the governing body votes to utilize the power of eminent domain, create a transportation development district or a community improvement district, or approve a redevelopment plan that pledges public funds as financing for the project or plan

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

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

## Procedures to Close a Meeting

If a public governmental body decides to hold a closed meeting, record or vote, they must give notice of the time, date and place of the meeting and the reason for holding the closed session by reference to the specific exemption allowed in the law. As with open meeting notices, such notice must be posted 24 hours prior to the time of the closed meeting exclusive of weekends and holidays when the facility is closed.

Before closing a meeting, record or vote, the governmental body must publicly vote on the question of closing the meeting, and the question must receive an affirmative vote of a majority of the quorum of the body. The vote of each member of the body and the reason for closing the session by reference to the specific exemption must be announced at an open session and entered into the minutes. The closed meeting shall be held only for the specific, announced reason; **other business, which does not directly relate to the reason announced as justification for the closed meeting, must not be discussed** (§610.022, RSMo).

If a member of a public body believes a meeting, record, or vote is being closed in violation of the Sunshine Law, the member should state an objection at or before the time of the vote on the improper motion is made, and have the objection entered into the minutes. The objection accompanied by a vote against closing the meeting, record or vote in question, acts as

an absolute defense in any claim for violations of the Sunshine Law against this individual (§610.022, RSMo).

### **Custodian of Records**

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

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

### **Written Policy Required**

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

### **Penalty Provisions**

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

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

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

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

## **Importance of City Attorney**

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

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

## Sample Rules of Order and Council Procedure

### Article I. MEETINGS

- 1.01 REGULAR MEETINGS. The council shall meet in regular session on the \_\_\_\_\_ of each month at \_\_\_\_\_ p.m. When a holiday occurs on any such Monday, the regular meeting shall be held on Tuesday at the same hour unless otherwise provided for by motion.
- 1.02 LOCATION. The place of the regular meetings shall be the council chamber in the city hall.
- 1.03 OPEN TO PUBLIC. All meetings of the city council, planning commission, board of zoning adjustment, and all other boards, commissions, committees and agencies of the City of \_\_\_\_\_, and any committee or subcommittee thereof, shall be deemed to be public meetings, open to the public, except as otherwise provided by law.
- 1.04 SPECIAL MEETINGS. Special meetings may be called by \_\_\_\_\_ or more members of the council or by the mayor. The \_\_\_\_\_ is directed to prepare a written notice of any special meeting, setting forth the name of the committee, board, commission or agency, the date and time of such meeting, the place such meeting is to be held, and the general subject matter to be discussed. Such written notice shall be prepared as soon as practicable after the announcement of any such special meeting and shall be prominently displayed on a bulletin board in the lobby of the city hall.
- 1.05 EXECUTIVE (CLOSED) SESSION. An executive session may be convened on call of the mayor or by a majority vote of the members of the council. Closed meetings may be called on the following issues: legal actions or litigation involving the city; lease, purchase or sale of real estate where public knowledge of the transaction might have adverse effects; hiring, firing, disciplining or promoting city personnel; and discussions between a governmental body and its representatives in preparation for negotiations with employee groups and any other issue identified in §610.021 RSMo.
- Attendance shall be limited to councilmembers; provided, however, that the council may invite such persons as may be required for advice and information.
- 1.06 QUORUM. \_\_\_\_\_ members of the council shall constitute a quorum to do business, but no action thereof shall be valid unless at least \_\_\_\_\_ (a majority of those elected to the council) shall vote in favor of such action.

## Article II. DUTIES AND PRIVILEGES OF MEMBERS

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

## Article III. THE PRESIDING OFFICER

- 3.01        MAYOR. The mayor shall preside at all meetings of the council and shall have a voice in its proceedings; but may vote only to break a tie (may not be appropriate for all classifications of municipalities).

- 3.02 ABSENCE OF MAYOR. The city council shall, at the time of organizing, elect one of its members as mayor pro tem (acting president of the board in 4<sup>th</sup> class cities) for a term of one year. In the absence of the mayor, the duties of the mayor shall be performed by the mayor pro tem. (In fourth class cities, the acting president of the board retains the powers of alderman even when serving as acting president).

#### Article IV. PROCEDURES AND PARLIAMENTARY RULES

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

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

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

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

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

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

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

#### Article V. ORDINANCES AND RESOLUTIONS

- 5.01 SIGNED BY MAYOR. Every resolution or ordinance passed by the council must be signed by the mayor, or in his absence, by the mayor pro tem.
- 5.02 READINGS. Any ordinance that shall have had its first reading shall be taken up by the council at its next session and shall be read the second time, and thereupon shall be open for debate and amendment. On the close of debate the presiding officer shall entertain a motion to place such ordinance on final passage.
- The motion for final passage shall not be debatable and shall take precedence over all other motions except one for adjournment. Upon being seconded, the presiding officer shall immediately put the motion to the council. If the said motion is adopted, no further debate or amendment shall be allowed, and the clerk shall immediately call the roll for its final passage. If such motion is not adopted, the ordinance shall still be open for debate and amendment until such time as a motion for final passage is adopted.
- 5.03 EMERGENCY ORDINANCES. Emergency measures shall take effect immediately upon their passage. An emergency measure is any ordinance passed by the affirmative vote of \_\_\_\_\_ members of the council

for the immediate preservation of the public peace, property, health, safety or morals, in which the emergency is set forth and defined in a preamble thereto, any ordinance calling any election, or providing for the submission of any proposal to the people; any ordinance making an appropriation for the payment of principal or interest of the public debt, or for current expenses of the city government; any general appropriation ordinance; any ordinance fixing any tax rate or assessment to be paid for by special assessment.

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

## STATUTES FOR PASSAGE OF ORDINANCES

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

### **Villages**

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

§80.110 RSMo - Trustees, passage of ordinances. No ordinance shall be passed except by bill, and no bill shall become an ordinance unless on its passage a majority of all the members of the board of trustees vote therefor, and the yeas and nays be entered upon the journal; every proposed ordinance shall be introduced to the board of trustees in writing and shall be read by title or in full two times prior to passage, both readings may occur at a single meeting of the board of trustees. If the proposed ordinance is read by title only, copies of the proposed ordinance shall be made available for public inspection prior to the time the bill is under consideration by the board of trustees. All ordinances shall be in full force and effect from and after their passage after being duly signed by the chairman of the board of trustees and attested by the village clerk.

### **Fourth Class Cities**

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

§79.140, RSMo - Bills must be signed, mayor’s veto. Every bill duly passed by the board of aldermen and presented to the mayor and by him approved shall become an ordinance, and every bill presented as aforesaid, but returned with the mayor’s objections thereto, shall stand reconsidered. The board of aldermen shall cause the objections of the mayor to be entered at large upon the journal, and proceed at its convenience to consider the question pending, which shall be in this form: “Shall the bill pass, the objections of the mayor thereto notwithstanding?” The vote upon the journal, and if two-thirds of all the members-elect shall vote in the affirmative, the city clerk shall certify the fact on the roll, and the bill thus certified shall be deposited with the proper officer, and shall become

an ordinance in the same manner and with like effect as if it had received the approval of the mayor. The mayor shall have power to sign or veto any ordinance passed by the board of aldermen; provided, that should he neglect or refuse to sign any ordinance and return the same with his objections, in writing, at the next regular meeting of the board of aldermen, the same shall become a law without his signature.

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

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

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

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

## ROLES AND RESPONSIBILITIES OF AN ELECTED OFFICIAL

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

### **Identifying Community Needs and Determining Priorities**

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

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

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

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

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

## **Participating in Formal Council Meetings**

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

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

During council meetings it is important that the city officials:

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

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

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

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

### **Interacting With Citizen Boards and Commissions**

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

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

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

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

### **Relating to City Employees**

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

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

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

### **Meeting with Citizen Groups**

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

interests will be more satisfied if you find out as much about the group as possible before meeting with them.

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

You should make every attempt to be warm and friendly, to be genuinely interested in the citizens' concerns, and make sure to follow up on any requests for action, even if it is to inform the group that the requested action is not possible.

### **Communicating with the Press and other Media**

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

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

- 1) **Be honest.** Be honest in all dealings with members of the press. Covering up, lying and distorting statements and actions are calculated to establish poor relations with the press.
- 2) **Be consistent.** Every effort should be made to maintain the same position on public matters from one meeting to the next, unless the facts have changed or you have thought through that position and changed your opinion.
- 3) **Be cautious.** Even though you may trust a reporter, you must realize that a reporter has a story to get and that what a public official says or thinks or does is news. Remember, whatever you say, whether it is "on-the-record" or "off-the-record" is potential news.
- 4) **Be positive.** Be positive in your attitude toward members of the press. They should be viewed as persons who can aid the city. A good working relationship can be established if the council is open in its dealings with the press.

- 5) **Be proactive.** Inviting the press to meetings – even work sessions – providing them with copies of reports, recommendations and other documents related to the business of the city, and initiate contact with reporters rather than waiting until the reporter comes to them.

## PERSONNEL ADMINISTRATION

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

Municipal officials continuously make decisions concerning the duties of city employees, their salaries and fringe benefits, qualifications for city employment, lines of authority, etc. Municipal personnel practices and policies are more likely to be fair and equitable, to be accepted and understood by employees, if they are systematically developed, written and kept current. One of the first and most important steps in establishing a sound program of personnel administration is to adopt a personnel ordinance that permits citizens, councilmen and employees to know quickly and accurately the formalized personnel rules and policies. In smaller municipalities, because the employees usually are well known to the members of the governing body, there is a tendency to treat each employee individually and to address problems on a more personal basis. However, even in the smallest municipality, pressures for special treatment in such matters as pay increases, vacation leave and sick leave, often make it advisable to develop formalized written personnel policies. **In fact, no municipality is too small to formalize its personnel policies and practices.**

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

### **Selection Procedures**

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

Although not required by state statutes, city officials may want to use every available method to advertise open positions in order to secure as many applicants as possible. First, they

should advertise the position in the local newspaper, and the ad should stress the benefits of municipal employment. Sometimes, the local newspaper will offer free space as a public service contribution. Second, for many positions, the current city employees might recruit applicants by spreading the availability of the position by word-of-mouth.

In larger municipalities, there are additional methods of advertising open positions. First, you might tape radio advertisements of ten to thirty seconds that the local stations will broadcast free of charge. Second, you might prepare colorful announcements listing job vacancies with qualifications, salary ranges, fringe benefits and other details of interest to prospective applicants. These announcements should be placed in public areas, such as the post office and on the municipality's web site. Third, city officials might contact the Missouri State Employment Service ([jobs.mo.gov](http://jobs.mo.gov)) – the state agency that serves as premier source for all resources relating to employment in Missouri. Finally, a recruiting method that has proved successful in obtaining professional personnel is to advertise on the Missouri Municipal League website and in the *Missouri Municipal Review*, the magazine published by the Missouri Municipal League, and in other appropriate trade journals.

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

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

The application should be given a preliminary check as soon as possible in order to identify any inaccurate or inadequate information. The preliminary check should include telephone or personal contacts with the applicant's references and with his previous employers. If the applicant does not possess the minimum qualifications required for the position, he may be excluded from further consideration at this point. The individual should be notified that they are no longer being considered for the position. If the information on the application form indicates the individual might be qualified for the position and if the preliminary check indicates the information is accurate, the next step usually is to arrange a personal interview with the applicant. However, if a large number of applications have been received the interviews may be restricted to the top candidates.

Depending on the structure of the municipal government, the interview may be conducted solely by the mayor, city administrator, personnel officer, department head, supervisor, city clerk or other qualified individual; more often, interviews are conducted by a panel of such officials. The interview simply is a conversation with a purpose – to determine whether the education, experience, interests and temperament of a person qualify them to fill a specific

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

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

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

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

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

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

Most municipalities provide that the new employee must complete a probationary period before final selection as a regular municipal employee. During the probationary period, the supervisor and department head should observe the employee's work and reject any probationary employee whose performance does not meet required work standards. The probation period is explained in greater detail in the *Personnel Manual for Missouri Municipalities*, which is published by the Missouri Municipal League.

## **Employee Records System**

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

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

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

Each employee's file should contain his original application form, as well as his interview and examination results. Also, the employee's file should contain a "roster" card for the recording of all important events bearing on the individual's employment with the city. The roster card should include the employee's date of first employment, department and the beginning salary. The roster card should include every subsequent change of status, whether salary increase, transfer, promotion or separation. In case of emergency contacts should be included in the file as well.

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

evaluation forms should be discussed with the employee in an effort to improve performance. You may obtain a sample evaluation form from the Missouri Municipal League.

For uniformity and efficiency of operations, the personnel files should be considered the central source for all information and transactions concerning employees. Depending on the structure of the municipal government, the personnel files may be maintained by the city administrator, city clerk, personnel officer or any other designated responsible individual. Most personnel records are considered confidential and steps should be taken to secure these files. This is especially true of personal medicals records which under the federal HIPPA law must be kept confidential and only released on need to know basis.

### **Employee Handbook**

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

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

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

### **Equal Employment Opportunity**

Municipal officials should be aware that the Equal Employment Opportunity Act prohibits cities from discriminating against any individual because of race, color, religion, sex or national origin. The law attempts to ensure nondiscrimination by encouraging the use of job related requirements for employment. Further, the Americans with Disabilities Act provides safeguards for the employments of those with disabilities.

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

- **DON’T** rely predominantly on word-of-mouth referral.
- **DON’T** rely on qualifications that are not job related and tend to “screen-out” applicants rather than “screen-in” qualified minority group persons.
- **DON’T** restrict any position on the basis of sex unless there is a bona fide occupational qualification involved.
- **DO** establish and maintain continuing relations with referral sources capable of furnishing large numbers of minority and female applicants such as schools –secondary, college, business or other; state employment and welfare offices; community action agencies; organizations directly serving minority groups and women; minority community leaders, etc.
- **DO** provide reasonable accommodations to employees who have disabilities. A reasonable accommodation is assistance or changes to a position or workplace that will enable an employee to do his or her job despite having a disability. Under the Americans with Disabilities Act (ADA), employers are required to provide reasonable accommodations to qualified employees with disabilities, unless doing so would pose an undue hardship.

### **Interviewing and Hiring**

When you interview applicants be certain that:

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

For example:

- Eliminate requirements for a high school or higher diploma where none is required.
- Eliminate experience requirements where the job can be quickly learned, and reduce experience requirements that are excessive.

- Liberalize height and weight requirements to comply with EEOC guidelines.
- Do not refuse employment based on arrest records. An arrest is not a conviction, and a conviction may be redeemed by later conduct.
- Look at the whole person.

Review and modify your entire testing structure:

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

### **Promotion and Training**

- Apply the same principles of equal opportunity to current employees as you do to new ones.
- Adopt a Merit Promotion Plan providing that vacant positions are usually filled through competition with applicants (current competitive service employees) being evaluated and ranked for the position on the basis of their experience, education, competencies and performance.
- Conduct regular, comprehensive reviews of employee mobility. Pay particular attention to the mobility patterns of minority groups and females.
- Whenever additional training is needed, provide it. Encourage all employees to take special courses that will qualify them for specific promotional opportunities.

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

### **Employee Termination**

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

- Review employee's record; pay careful attention to absences and tardiness, their existence and frequency.
- For many reasons some employees encounter difficulties in adjusting to a new working situation. Investigate all possibilities; don't cast them aside. Help mold these persons into effective workers. The result may be your gain.

- Talk to the employee and try to determine the specific problem and the cause.
- Promote an open door policy so all employees can air their concerns.
- Establish a clear, publicized system of investigating complaints.
- Before firing an apparently ineffective employee, be certain that a thorough investigation has been conducted, and that you and his supervisors have made every possible effort to avoid his termination. If the employee was hired through a service agency, be sure the agency has been notified and has been given an opportunity to help the employee.

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

## **FINANCIAL ADMINISTRATION**

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

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

### **Financial Statements**

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

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

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

### **Publication Of Semiannual Statements**

State statutes require the governing body of most cities to make out and record a full and detailed account and statement of the receipts, expenditures and indebtedness of the city

semiannually. Details of the city's separate funds must be given in the financial report. The semiannual financial statement must be published in some newspaper in the city.

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

Although the semiannual financial statement must be "full and detailed," there have not been any definitive court cases concerning the exact reporting requirements of the law. Although a 1986 Attorney General Opinion does provide some guidance.

### **Advantages of the Independent Audit**

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

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

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

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

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

you a “bid” on the cost of the audit. We suggest a firm that works with other governmental agencies, preferably other municipalities.

## **City Budgets**

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

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

1. Prepare an annual budget. The annual budget must present a complete financial plan for the next budget year. The statutes specifically state that each of the following must be included in the budget:
  - a) A budget message to describe the important features of the budget and to point out any major changes from the previous year.
  - b) An estimate of revenues that are expected to be received during the next year from all sources, plus a comparative statement of the estimated revenues for the previous two budget years. These comparisons should be shown by year, fund and source.
  - c) An estimate of the expenditures that are proposed to be spent during the budget year, plus a comparative statement of actual or estimated expenditures for the previous two years. These comparisons should be shown by year, fund, activity and object.
  - d) The amount of money required to pay any interest, amortization or redemption charges the municipality will owe during the budget year.
  - e) A general summary of the total proposed budget.
2. Each municipality must appoint a budget officer. This is done by board action. Normally, the city administrator, finance officer, mayor, city clerk, or other city official is appointed budget officer. However, the statutes do not specifically state who may be the budget officer. It is the responsibility of the budget officer to prepare the budget after reviewing expenditure requests and revenue estimates. The budget officer submits the completed budget and supporting schedules and exhibits to the governing body for approval. In many smaller cities, the city clerk, if not appointed budget officer, at least will assist the budget officer in the budgeting process.

3. Expenditure estimates never can be larger than the amount anticipated in revenue plus fun balance reserves.
4. No expenditures of public monies can be made until the city has conformed to all the rules established in Chapter 67 of the Revised Missouri Statutes.

### **Chronological Steps in Budgeting Process**

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

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

### **The Budget Calendar**

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

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

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

## **SUGGESTED BUDGET TIMETABLE**

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

### **Revenue Estimating**

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

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

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

If the past history of the municipality’s revenues is analyzed and linked with current observations as to the financial condition of the municipality, a useful revenue estimate can be

derived. Caution must be used in determining the final revenue estimate, because a too conservative revenue estimate can hamper the progress of municipal programs, while a too liberal estimate can put the municipality into economic difficulties.

### **Expenditure Estimating**

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

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

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

In order to simplify the assembling and analysis of departmental requests, a standard form can be distributed to all departments with explicit instructions included. The design of the form is not as important as its clarity and usefulness. (A sample departmental request form can be found on page 65.)

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

## REVENUE ESTIMATING

<u>Year</u>	<u>Ann. Rev.</u>	<u>% Ann. Inc.</u>	<u>Avg. % Inc.</u>
2015	\$200,000		3.4%
2016	210,000	4.7	
2017	215,000	2.3	
2018	220,000	2.3	
2019	230,000	4.3	
2020	235,000	2.1	
2021	240,000	2.1	
2022	260,000	7.7	
2023	265,000	1.9	
2024	274,000 )		
	)		
2025	283,000 )		

### **Review Of Requests**

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

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

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

## **Budget Message**

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

## **Assembling the Budget**

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

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

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

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

## **Board Action**

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

Similarly, the statutes do not specify the exact procedures the governing body must follow to adopt the annual budget. The statutes merely state that "... the governing body ... shall, before the beginning of the fiscal year, approve the budget and approve or adopt such order, motions, resolutions or ordinances as may be required to authorize the budget expenditures and produce the revenues estimated in the budget." (§67.030, RSMo). The ordinance method of adopting the budget is excellent in that it gives the public an opportunity to ask questions and discuss the budget at each ordinance reading.

## SAMPLE DEPARTMENTAL REQUEST FORM

### Instructions

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

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

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

Bond Sales Expenses	<u>0,000</u>	<u>0,000</u>	<u>0,000</u>	
TOTAL	\$ 0,000	\$ 0,000	\$ 0,000	
<u>Capital Outlay</u>				
Land	\$	00,000	\$	00,000
Buildings	00,000	00,000	00,000	
Equipment		<u>00,000</u>	<u>00,000</u>	<u>00,000</u>
TOTAL	\$ 00,000	\$ 00,000	\$ 00,000	
GRAND TOTAL	\$000,000	\$000,000	\$ 000,000	

## **SAMPLE BUDGET FORMAT**

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

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

Honorable Mayor and City Council  
Your Town  
Missouri

Councilmembers:

Pursuant to the requirements of Section 67.020 of the Revised Statutes of Missouri, the 2015 budget is hereby submitted. This budget has been prepared in conjunction with the department heads who have attempted to anticipate the needs of their departments realistically in relation both to available money and departmental needs.

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

In every respect, the 2015 budget meets the requirements that expenditures do not exceed revenues. In addition, all bond funds are anticipated to have more than adequate supporting revenues.

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

The revenues anticipated for the Street Department in both the maintenance and capital improvements sections total \$127,400. This is a net decrease of \$4,039. The reason for this decrease may be found in the flood relief refund item carried in the 2014 budget, which constituted federal participation in flood relief.

The 2015 budget represents a total yearly program of \$584,467 in the General Fund, Street Fund, Cemetery Fund, Parking System and various bond retirement funds.

The 2015 budget is submitted with the belief that it represents a worthy effort to obtain a balanced, forward looking municipal program for the year. It represents in virtually every section a planned effort to improve the level or the quality of service now provided Your Town. The budget expresses on paper and in dollars the never ending struggle to provide Your Town citizens the most service possible for each of their tax dollars.

Respectfully submitted,

Budget Officer

CITY OF YOUR TOWN

Budget Summary  
Revenues – All Funds  
20xx-xx Budget

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

City of Your Town

General Fund  
Estimated Resources and Disbursements

(Prepare similar schedule for each fund)

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

\*Beginning date of your city's fiscal year

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

CITY OF ANYTOWN, MISSOURI  
Estimated Source of Funds

(Prepare similar schedule for each fund)

	General Fund		
	Actual	Estimated	Budget
	<u>20xx-xx</u>	<u>20xx-xx</u>	<u>20xx-xx</u>
<u>General Property Taxes</u>			
Real Property Tax	\$000,000	\$000,000	\$000,000
Personal Property Tax		00,000	00,000
00,000			
Delinquent Real Tax	0,000	0,000	0,000
Delinquent Personal Tax		<u>000</u>	<u>000</u>
<u>000</u>			
TOTAL	\$000,000	\$000,000	\$000,000
<u>Other Tax Receipts</u>			
Merchants & Manufacturers	\$ 0,000	\$ 0,000	\$ 0,000
Corporations & Intangible	00,000	00,000	00,000
Interest & Penalties	0,000	0,000	0,000
Telephone Franchise	00,000	00,000	00,000
Electric Franchise		<u>00,000</u>	<u>00,000</u>
<u>00,000</u>			
TOTAL	\$ 00,000	\$ 00,000	\$ 00,000
<u>Licenses &amp; Permits</u>			
Vehicle Licenses		\$ 00,000	\$ 00,000
\$ 00,000			
Liquor Licenses		<u>0,000</u>	<u>0,000</u>
<u>0,000</u>			
TOTAL	\$ 00,000	\$ 00,000	\$ 00,000
<u>Intergovernmental Revenue</u>			
Federal Grants	\$000,000	\$000,000	\$000,000
Federal Shared Revenues		00,000	00,000
00,000			
State Grants	00,000	00,000	00,000
State Shared Revenues		<u>00,000</u>	<u>00,000</u>
<u>00,000</u>			
TOTAL	\$000,000	\$000,000	\$000,000

Charges for Services

Sanitation		\$ 00,000	\$ 00,000
\$ 00,000			
Culture - Recreation	<u>0,000</u>	<u>0,000</u>	<u>0,000</u>
TOTAL	\$ 00,000	\$ 00,000	\$ 00,000

Fines and Forfeits

TOTAL	\$ 00,000	\$ 00,000	\$ 00,000
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Miscellaneous Income

Interest Income		\$000,000	\$000,000
\$000,000			
Other	<u>0,000</u>	<u>0,000</u>	<u>0,000</u>
TOTAL	\$000,000	\$000,000	\$000,000
GRAND TOTAL		\$000,000	\$000,000
\$000,000			

CITY OF YOUR TOWN, MISSOURI

Budget Summary

Expenditures – All Funds

20xx-xx Budget

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

CITY OF YOUR TOWN, MISSOURI

General Fund

(Prepare similar schedule for each fund)

Proposed Expenditures

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

EXPENDITURE DETAIL

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

ACTIVITY FUND

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

TOTAL	\$ 000	\$ 000	\$ 000
<u>Debt Service</u>			
Interest	\$ 0,000	\$ 0,000	\$ 0,000
Bond Interest Expenses	<u>0,000</u>	<u>0,000</u>	<u>0,000</u>
TOTAL	\$ 0,000	\$ 0,000	\$ 0,000
<u>Capital Outlay</u>			
Land	\$ 00,000	\$ 00,000	\$ 00,000
Buildings	00,000	00,000	00,000
Equipment	<u>00,000</u>	<u>00,000</u>	<u>00,000</u>
TOTAL	\$ 00,000	\$ 00,000	\$ 00,000
GRAND TOTAL	\$000,000	\$000,000	\$000,000

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

#### PERSONNEL SCHEDULE

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

## CONFLICT OF INTEREST

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

### Early Conflict Of Interest Statutes

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

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

### Provisions of the Law

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

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

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

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

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

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

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

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

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

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

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

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

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

### **Penalties**

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

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

### **NEPOTISM**

Article VII, Section 6 of the Missouri Constitution provides that **“Any public officer or employee in this state who by virtue of his office or employment names or appoints to public office or employment any relative within the fourth degree, by consanguinity or affinity, shall thereby forfeit his office or employment.”** This provision means that an elected official who votes in favor of the appointment of a relative automatically forfeits their position as an elected official. Relatives as defined extend out to 1<sup>st</sup> cousins, great-great-grandchildren, and great-great-grandparents.

### **INCOMPATIBILITY OF OFFICE (DUAL OFFICE HOLDING)**

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

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

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

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

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

### **Other Considerations**

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

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

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

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

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

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

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

Regional Planning Commissions  
Macogonline.org

Missouri Auditor's Office  
Auditor.mo.gov

Missouri Secretary of State  
Sos.mo.gov

Missouri  
Ago.mo.gov

Missouri Ethics Commission  
Mec.mo.gov

## THE CITY COUNCIL

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

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

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

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

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

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