



# **Guidebook for Municipal Officials of Mayor/Council Cities**

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## Introduction

As local government becomes increasingly complex, it becomes imperative that as local officials you understand the duties and responsibilities of your positions. Not understanding may lead to conflict with other city officials, stifle the effectiveness of your city government or lead to lawsuits.

This booklet is to assist newly elected mayors and council members to learn their statutory duties and responsibilities to become effective city officials.

This booklet also points out the differences in the functions of the mayor and council members under each municipal classification of municipalities.

Arkansas statutes are laws passed by the Arkansas General Assembly (the State Legislature) and are codified into the Arkansas Code Annotated of 1987 as Amended and are referred to as ACA.

The Arkansas Municipal League has published a *Handbook for Arkansas Municipal Officials*, which contains most of the laws affecting municipal government in Arkansas. This Handbook (Hdbk.) has the same numbering system as the Arkansas Code Annotated (ACA).

The Arkansas Municipal League also publishes a book, *General Acts Affecting Arkansas Municipalities*, after each regular session of the General Assembly.

The Arkansas Municipal League recommends that you, as a municipal official, ask your city attorney when questions of legal matters arise. As always, the League staff remains available to assist you.

## Disclaimer

The information contained in this book is not intended as legal advice for any specific case. Readers are responsible for consulting with legal counsel when questions arise concerning the application of the law to a particular set of facts. This book is intended solely for educational and informational purposes.



# Chapter I

## An Overview of Arkansas Municipal Government

Arkansas municipalities are creatures of the state. Prior to 2011, cities had only powers granted to them by the Arkansas Constitution and statutes passed by the Arkansas General Assembly. This was Dillon’s Rule and, according to the Arkansas Supreme Court, it meant:

a municipal corporation possesses and can exercise the following powers and no others: First, those granted in express words; second, those necessarily or fairly implied in or incident to the powers expressly granted; third, those essential to the accomplishment of the declared objects and purposes of the corporation—not simply convenient, but indispensable.

*Tompos v. City of Fayetteville*, 280 Ark. 435, 438, 658 S.W.2d 404, 406 (1983).

The legislature expanded this rule to a certain extent for some cities. “Home Rule” statutes gave the power to first-class cities and certain cities operating under a charter the power to exercise all powers relating to municipal affairs so long as they did not conflict with state law. In 1875, the legislature enacted Section 14-55-102. Section 14-55-102 gave broad authority to municipalities by granting cities and towns the power to pass ordinances. Although Section 14-55-102 could be interpreted as repealing “Dillon’s Rule,” the Arkansas Supreme Court continued to apply Dillon’s Rule long after the enactment of that statute in 1875, upholding ordinances under that section if they were legitimately aimed at protecting public health and safety.

However, Act 1187 of 2011 repealed Dillon’s Rule and extended certain powers granted to cities of the first class to all municipalities. Section 14-43-602 states that the rule of decision known as Dillon’s Rule is inapplicable to the municipal affairs of municipalities. It gives a municipality the authority to “perform any function and exercise full legislative power in any and all matters of whatsoever nature pertaining to its municipal affairs including, but not limited to, the power to tax.” Section 14-43-601 defines “municipal affairs” as “all matters and affairs of government germane to, affecting, or concerning the municipality or its government except state affairs subject to the general laws of the State of Arkansas,” which are listed in 14-43-601(a)(1). A municipality may legislate upon the state affairs described in subdivision (a)(1) of Section 14-43-601 if not in conflict with state law.

### Incorporation

An Arkansas community may incorporate by a written petition that describes the geographic area seeking to incorporate and identifying the persons authorized to act on behalf of the petitioners. The petition must be signed by at least 200 or a majority of the qualified electors, whichever is greater, and presented to the county court (county judge). The county court (county judge) shall set a date for a hearing and after the hearing the court will either approve or reject the incorporation. If approved, the incorporation is filed with the Secretary of State and notice of election of officers for the newly incorporated municipality is posted. New cities or towns cannot incorporate if they are within five (5) miles of the boundaries of another incorporated city or town unless the governing body of that city or town has “by written resolution affirmatively consented to said incorporation” or a natural barrier exists making the area to be incorporated inaccessible to the existing municipality. In addition, certain real estate developments are exempt from the five-mile limitation requirement. (Hdbk. 14-38-100 et seq.)

Arkansas law also allows for an election procedure as an alternative for the incorporation of new municipalities having a population of at least 4,000 (Hdbk. 14-38-115). Further, a procedure is available for the annexation of unincorporated property by passage of an ordinance if two or more municipalities surround the unincorporated area (Hdbk. 14-40-501).

## Classification

Arkansas municipalities are divided into three (3) classes based on population (See Hdbk. 14-37-101 et. seq.).

Class of City	Population	Referred to As
First	2,500 or more	City of the First Class
Second	500-2,499	City of the Second Class
Incorporated	499 or fewer	Incorporated Town

Once a municipality reaches a population of 500, it is classified as a city of the second class, and once a municipality reaches 2,500, it is classified as a city of the first class. However, there are exceptions to these classification criteria. For example, if the council of a town of under 500 population wishes to become a city of the second class, it may do so by its submitting an ordinance to the voters, and if voters approve, the town becomes a city of the second class. Further, any city of 1,500 or more may, by enactment of an ordinance, become a city of the first class. (See generally, Hdbk. 14-37-101 et seq.) Arkansas law also allows for cities with certain populations to reduce their classification (Hdbk. 14-37-111 and 14-37-114).

## The Duties of the Mayor

The duties of the office of mayor are many and will not be listed in their entirety in this *Guidebook*. All mayors are encouraged to become familiar with their duties and responsibilities by reading the sections concerning the powers of the mayor in the current Handbook. The purpose of this *Guidebook* is to give a summary and overview of the duties of mayor.

### • The Duties of the Mayor in the Mayor-Council Form of Government

The principal officer of all Arkansas cities and towns within the mayor/council form of government is the mayor. By virtue of this position, the mayor is ex-officio president of the council. It is the mayor's responsibility to keep the city government running properly. This includes the mayor's enforcing city ordinances and making sure that the residents receive maximum benefits and services for the taxes that they pay.

### • Legislative Duties of the Mayor

- In all municipalities in Arkansas, the mayor presides over the meetings of the council in cities and towns with the mayor/council form of government.
- The mayor may vote when the mayor's vote is needed to pass any ordinance, bylaw, resolution or motion (Hdbk. 14-43-501; 14-44-107; 14-45-105). Mayors in cities of the first and second class have a vote to establish a quorum (Hdbk. 14-43-501; 14-44-107). However, mayors in cities of the first class may do so only at the regular meetings.
- After the passage of an ordinance setting the procedure for special council meetings, the mayor has the authority to call the council into session for a special meeting (Hdbk. 14-43-502).
- The mayor is required to sign all ordinances, resolutions and city council minutes (Hdbk. 14-55-205).
- If provided by council rules, the mayor may introduce ordinances and resolutions and recommend policy (Hdbk. 14-43-504).
- The mayor in cities and towns with the mayor/council form of government may veto any ordinance, resolution or order adopted by the council. Councils may override the veto by two-thirds vote of the total membership of the council (Hdbk. 14-43-504; 14-44-107; 14-45-105).
- The vote to override should occur at the next regular council meeting (Hdbk. 14-43-504; 14-44-107; 14-45-105).

- **Administrative Duties of the Mayor**

- Mayors of cities and towns with the mayor/council form of government are required to prepare and submit a budget to the city council for approval on or before December 1 of each year (See Chapter V).
- All mayors of cities of the first class must submit to the city council within the first 90 days of each year a complete report on the financial and administrative activities of the city. This is commonly referred to as the State of the City Report. (Hdbk. 14-43-501(d) & 14-58-302).
- The mayor oversees the day-to-day activities of the city and supervises department heads.

- **The Mayor's Duties of Appointment and Removal**

Mayors in cities or towns with the mayor/council form of government have the power to appoint and remove all department heads, including police and fire chiefs, unless the city or town council votes to override the mayor's action by a two-thirds majority of all council members. In cities with a civil service commission, the council may, by ordinance, delegate the authority to appoint and remove the police or fire chief to the city's civil service commission. The mayor may not appoint or remove department heads that are not under the control of the governing body of the city (Hdbk. 14-42-110).

Mayors may appoint:

- A board of library trustees (Hdbk. 13-2-502 [with city council approval])
- A director of a department of public safety (Hdbk. 14-42-421)
- A health officer (Hdbk. 14-262-103)
- An airport commission (with council approval) (Hdbk. 14-359-105)
- A parks and recreation commission (Hdbk. 14-269-202 [with council confirmation] and 14-269-302 [with council confirmation])
- A marshal in some second class cities (Hdbk. 14-44-111)

## **Duties of the Aldermen/Council Members**

### **Mayor/Council Form of Government**

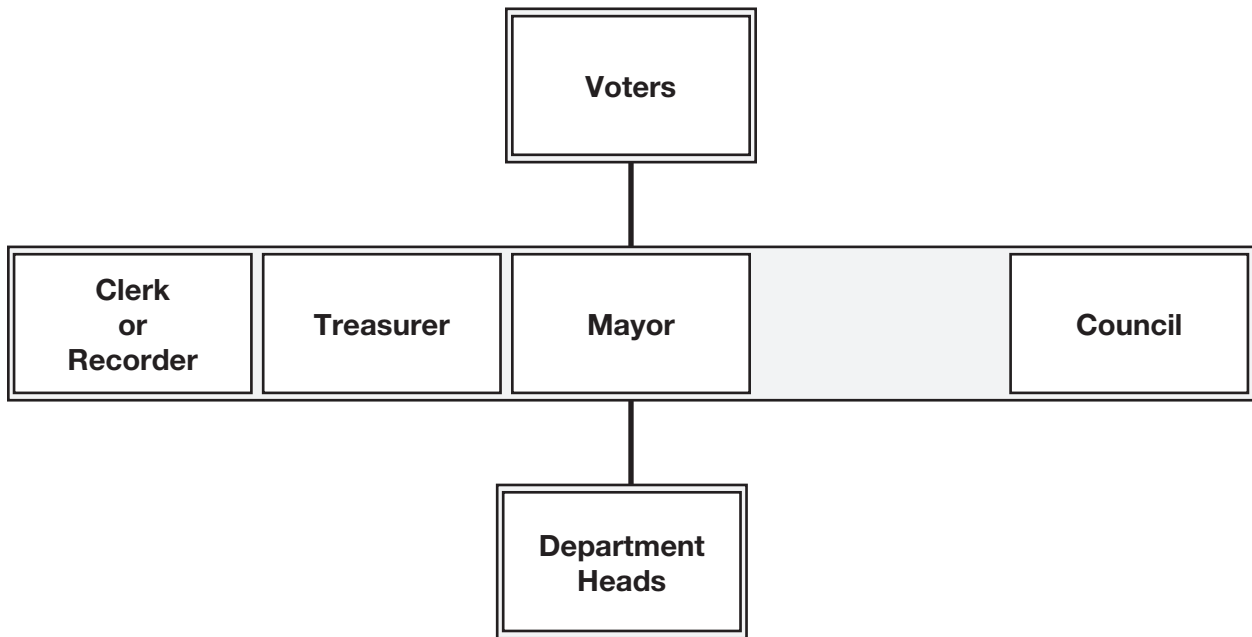
City council members are officers and officials of their city. The city council:

- Has the management and control of the city finances and all real and personal property belonging to the city (Hdbk. 14-43-502).
- Adopts a budget by ordinance or resolution for operation of the city or town by February 1 of each year. (Hdbk. 14-58-202).
- Sets the procedures by ordinance for making purchases that do not exceed the sum of \$20,000 in cities of the first class. This can be done by bid or reverse Internet auction. Councils in second class cities and in towns may set procedures for making all purchases (Hdbk. 14-58-303(b)).
- Sets the time and place for regular city council meetings (Hdbk. 14-43-501). All meetings should be open to the public in accord with the state Freedom of Information Act (Hdbk. 25-19-106).
- May override the mayor's appointment and removal of department heads by two-thirds vote of the total membership (Hdbk. 14-42-110).
- May override the mayor's veto by two-thirds vote [Hdbk. 14-43-504(e);14-44-107(b); 14-45-105(b)].
- Calls for a special election in cities of the first class to fill the vacancy of the unexpired mayor's term of office, if the unexpired term is for more than six (6) months [Hdbk. 14-43-401(b)(1)].
- May fill, by appointment in cities of the first class, the vacancy to the office of mayor if the expired term is less than six (6) months [Hdbk. 14-43-401(b)(1)].
- In a city of the second class the city council shall fill the mayor's unexpired term by either a majority vote of the aldermen or a special election (Hdbk. 14-44-106). In an incorporated town the aldermen select a qualified elector to fill the mayoral vacancy and do not hold a special election (Hdbk. 14-45-103).
- Sets the salaries of the mayor, council and other municipal officials. Salaries of officials may be

increased during the term, but not decreased during the term of office unless requested by that official (Hdbk. 14-42-113).

- Aldermen cannot serve on a quorum court and the city council at the same time. (Act 1924 of 2005, ACA 14-14-1202).

### Mayor/Council Diagram



# Chapter II

## City Council Rules of Procedure and Different Types of Meetings

### Procedural Rules

Each Arkansas city is unique. Your city and the residents you represent are no exception. The city council rules of procedure should be agreed to and officially adopted by the majority of city council members. Rules of procedure are guides to the generally accepted way that things get done. Topics that are usually covered in procedural rules include:

- **Meetings:** the usual date, time and place for regularly scheduled meetings; and setting the procedure for calling a special meeting by ordinance.
- **Order of Business:** the usual format to be followed, including who's responsible for preparing the agenda according to that format, and special provisions for agenda items such as developing a consent agenda.
- **General Meeting Procedures:** time limits for debate, if any, and who may speak at what point.
- **Public Hearings:** procedure and time limits.
- **New Business:** a process for allowing new items to be added to the agenda.
- **Exceptions:** specific provisions for when and how the rules can be suspended.
- **Parliamentary Process:** rules of debate governing motions, the order of issues to be discussed, and other elements that control discussion at meetings. The *Procedural Rules for Municipal Officials* booklet is commonly used by many Arkansas cities. Copies of *Procedural Rules* are available by calling the Arkansas Municipal League at 501-374-3484. You may order online at [www.arml.org](http://www.arml.org).

Rules of procedure and public debate are to facilitate the transaction of public business in an orderly way. At first it may not seem orderly to you. It is not unusual for newly elected council members to take up to six (6) months before they feel comfortable with the procedures. Don't be intimidated into not asking questions if you are not sure about the consequences of your vote. For example, you may want to ask, "If I vote 'no' on the amendment, what happens to the main motion?" That is not an unreasonable request for information.

### Different Types of Meetings

Newly elected officials should quickly learn that there are five (5) kinds of meetings.

- **Regular Council Meetings:** These meetings handle general and routine business, and it is during these meetings that ordinances are enacted.
- **Special Meetings:** Business that cannot be postponed, or issues that affect a limited number of citizens, are dealt with at a specially scheduled meeting. These meetings usually have a more limited agenda than regular meetings but, like regular meetings, they are open to the public. It is important that the time and place of meetings of this sort are announced to the media and to the general public as required by the Freedom of Information Act. Media that have requested notice must be given at least two hours advance notification [Hdbk. 25-19-106(b)].
- **Public Hearings:** Hearings are a forum for residents to express opinions and for council members to explain their positions to the public. Hearings are most effective when they target only one item per hearing, for example, budget or zoning.
- **Executive Session:** These closed meetings are permitted only for the purpose of considering employment, appointment, promotion, demotion, disciplinary action or resignation of any public officer or employee. This may not include general discussion about making policies related to these subjects. (Hdbk. 25-19-106). (Additional information on the Freedom of Information Act is discussed in Chapter VI.)

- **Work Session:** An informal meeting, generally called for the purpose of conducting an in-depth study on a limited number of topics. Work session meetings encourage exploration of subjects in more detail than is possible in regular meetings because of the time constraints and the pressure of other business that occur in regular council session. These sessions must be open to the public.

Each of these meetings that have been discussed should be looked on as a way to achieve certain goals. An incorrect choice of meeting type can disrupt your city government from effectively doing its job.

## Chapter III

### Proper Ways to Pass Ordinances and Resolutions

A city or town council can take official action in two ways: it can pass a resolution and/or ordinance. Both actions play important roles in their own respective ways and they share certain similarities. However, there are distinctions between the two, and it is important to know the differences.

#### Resolutions

A resolution is an expression of the will of the council. Resolutions are used to state the council's opinion on various matters — for example, supporting or opposing legislation pending at the State Capitol. Resolutions usually affect items of a temporary or administrative nature, such as letting contracts, approving large purchases or entering into agreements with other governmental units. A resolution is the official expression of the council and may be adopted by the council at one reading.

#### Ordinances

An ordinance is a local law that usually regulates persons or property and usually relates to a matter of a general and permanent nature. An ordinance is more formal and authoritative than a resolution. Therefore, we recommend your city attorney approve the structure and content of all proposed city ordinances. An ordinance should not conflict with federal or state law. It should also be in harmony with applicable court decisions. There are six (6) rules to remember about passing an ordinance.

1. Ordinances must be reasonable.
2. They must not be oppressive.
3. They must not be discriminating or partial.
4. They must not unduly restrain lawful trade.
5. They must not violate civil rights.
6. They must not be ambiguous.

The passage of an ordinance typically involves three (3) steps. The first step is the introduction of the proposed ordinance at a council meeting. The second step is to allow for the city clerk's, recorder's or attorney's reading of the ordinance; this is followed by allowing the person(s) proposing the ordinance the opportunity to explain its provisions. Third, the council debates the ordinance and either defeats, postpones, refers it to a committee for study or approves it. It is then signed by the mayor and attested to by the city clerk. (Hdbk. 14-55-201 et seq.)

Remember that all ordinances must be read fully and distinctly on three different days (usually three different meetings), unless two-thirds of the members of the council shall suspend the rule (Hdbk. 14-55-202). Please note, however, that an emergency clause requires a separate and distinct vote of the council and is valid only if there is a two-thirds vote of approval by the council (Hdbk. Const. Amend. 7).

Without the adoption of the emergency clause, municipal ordinances generally become effective 30 to 90 days after their passage (Hdbk. 14-55-203). All ordinances of a general or permanent nature and all those imposing any fine, penalty or forfeiture must be published in a newspaper of general circulation in those municipalities where a newspaper is published. However, the law provides that in municipalities where no newspaper is published, written or printed notice posted in five (5) of the most public places (designated by ordinance or minutes) shall be sufficient publication of any law or ordinance (Hdbk. 14-55-206).

Additional and more detailed information about resolutions and ordinances may be obtained from the *Handbook*, Title 14, Chapter 55, Subchapters 1-7.

## Chapter IV

### Personnel

Personnel issues continue to have a growing significance in municipal government. Newly elected officials would be wise to go slow in their direct involvement into personnel matters. Human resource law affecting municipal government is heavily litigated and rapidly changing. Many lawsuits defended by the Municipal Legal Defense Program involve the discipline or discharge of city employees. The advice of your city attorney should always be solicited when dealing with personnel matters. (See the League's *Sample Personnel Handbook for Arkansas Cities and Towns* and *Understanding Municipal Personnel Law and Suggestions for Avoiding Lawsuits*.)

### Personnel Administration

Many Arkansas cities have neither a large enough workforce nor the financial resources to justify having a full-time personnel director. The common procedure is to assign personnel operations to one person—the mayor, city recorder or city clerk, who wears several other hats as well. Nevertheless, this manual recommends that your city employ an individual or train a current employee to be thoroughly familiar with all aspects of personnel administration.

Regardless of the organizational structure a city uses, two (2) common-sense principles apply:

1. The city council must decide the scope of personnel activities that will be conducted as part of the city's ongoing operations. Then all personnel-related tasks must be assigned to specific persons within the city organization. These tasks should be reviewed and distributed or made readily available to all employees.
2. All of the city's personnel policies and procedures should be clearly spelled out in writing in easily understood language and distributed or made readily available to all employees.

### Establishing Personnel Policies

All policy matters are decided by the city council, which enacts ordinances setting up the personnel system and establishing recruitment standards, pay scales, conditions of employment, retirement qualifications and other items. The council also approves the rules by which personnel ordinances are implemented and the procedures for handling administrative matters. Additionally, the council's budgetary powers give it continuing control over the number of employees and the general scope of their duties.

The city's personnel policies and practices must conform to federal and state laws. Also, all policies and procedures must be practicable, which means they need to be carefully considered prior to their adoption. Any policy or procedure that fails to accomplish its intended purpose in a simple, direct fashion will multiply, rather than reduce, the city's operating problems.

Assistance in drafting the city's personnel policies and procedural rules should be obtained from an attorney or other specialist skilled in employee relations and from the person to whom the council has assigned the responsibility for implementing the policies.

Upon completion of the drafting process, the proposed policies and rules are presented to the city council for consideration, possible amendments and final approval in an ordinance(s). Upon enactment, the policies and rules become binding on both the city and its employees.

## **The Employee Handbook**

All personnel-related ordinances and regulations should be compiled into a single document, an employee handbook, for distribution to members of the city council and the entire municipal workforce. Each employee should be required to sign a form acknowledging that he or she received the handbook. City employees should follow the handbook and the city council-approved rules and regulations of their individual departments. Administrative rules need not be made a part of the handbook.

In addition to a personnel policy handbook, all municipalities should have written job descriptions for all employees. A written description is evidence of the essential functions and responsibilities of each job. Job descriptions should be reviewed and updated periodically to ensure that all duties and responsibilities of the position are reflected in the job description. (For assistance in drafting an employee handbook see *Model Personnel File Folder, Sample Personnel Handbook for Arkansas Cities and Towns* and *Understanding Municipal Personnel Law and Suggestions for Avoiding Lawsuits*.)

## **Unions or Professional Associations**

Upon receipt of a written request and signed by a full-time municipal employee who is represented by a union or professional association, the municipality shall withhold membership dues of the union or professional association from the salary of the employee. The municipality shall transmit all dues that are withheld under this section to the union or professional association representing the employee within five (5) days of the end of the pay period. This withholding shall be discontinued only upon receipt of a written notice of cancellation signed by the employee. (Hdbk. 14-58-103).

# Chapter V

## Budgeting and Finances

The residents of your city are entitled to an accounting from their municipal officials. The professional management of city finances demands high standards of personal responsibility. As a newly elected city official it is extremely important that you understand the basics of city financial matters. One noted political analyst suggests two criteria that constituents traditionally use to evaluate the effectiveness of their local government. What does it provide for them and what does it cost? The document that should answer these questions is your annual budget.

### City Budgets

Your city's annual operating budget should be the principal policy management tool for governing. It should be the mechanism to:

1. Evaluate city services.
2. Measure and compare needs.
3. Set priorities and balance community public service demands against the tax revenues required to furnish them. Therefore, it is important that governing officials participate in the policies and decisions that go into building your municipal budget.

### Arkansas Law and Budgeting

- Every city and town must have an annual operating budget approved by its governing body (Hdbk. 14-58-201 through 203).
- The fiscal year of each city and town shall begin January 1 and end at midnight, December 31 of each year (Hdbk. 14-71-102).
- Deficit spending is prohibited. Cities are not allowed to spend more money than they accrue during a year (Ark. Const. Art. 12 Sec. 4). Exceptions to this rule are made for capital improvement and revenue bonds (Ark. Const. Amend. 62 and 65) and for short term (up to five years) financing (Ark. Const. Amend. 78 sec. 2).
- All cities and towns must have the financial affairs of the city or town audited annually by a certified public accountant or by the division of the Legislative Audit of the State of Arkansas (Hdbk. 14-58-101).

### Major Revenue Sources Available

Revenue sources may differ from city to city. However, listed below are the major revenue sources available to Arkansas cities:

- **City and County Local Sales Taxes**—Cities and towns share on a population basis most countywide sales taxes for operating purposes. City voters may authorize city sales taxes and county voters may authorize county sales taxes.
- **Ad Valorem General Fund Property Tax**—set by the governing body, may not exceed five (5) mills. Cities share three (3) mills of county road tax (Hdbk. 26-25-102).
- **General/Street Fund Turnbacks**—this is appropriated from the State Municipal Aid Fund and distributed to cities based on population according to the most recent decennial census.
- **Administration of Justice Funds**—a cost of living adjustment based on the consumer price index is applied to district court generated administration of justice funds (Hdbk. 16-10-307 and 308).
- **Franchise Taxes**—Investor-owned public utility retailers pay a franchise tax to cities for use of public rights of way and streets for the delivery of their services (Hdbk. 14-200-101).
- **Solid Waste/Sanitation Fees**—Cities may charge a fee for the pick up and disposal of residential, commercial and industrial solid waste.
- **Fines and Forfeitures**—Municipal ordinances may be enforced by the imposition of fines, forfeitures

and penalties on violators of city ordinances.

- **Permit and Inspection Fees**—Cities have the authority to require building permits, safety inspections and to charge accordingly.
- **Parks Department Revenue**—The city may charge fees for participants of city recreation programs and for concession revenues at the city pool, parks and community center.
- **Occupational Taxes/Privilege License**—The city may charge and collect revenue for the privilege of doing business or carrying on any trade profession or vocation within the city limits.

## Other Income (Miscellaneous Revenues)

- Outside fire protection fees
- Sale of equipment
- Animal licenses
- Hotel and motel/Hamburger taxes
- Vehicle licenses
- Interest earned from special accounts

## Purchasing and Bidding

In all first-class cities with the mayor/council form of government, the mayor or duly authorized representative has the exclusive power and responsibility to make purchases of all city supplies, equipment and materials necessary to conduct the business of the city. The mayor has the authority to enter into contracts for work or labor on behalf of the city, after approval of the city council.

- The governing body shall set out the procedure for all purchases that do not exceed \$20,000. This can be done by bid or reverse Internet auction. The details for these purchase procedures should be described in each city's purchasing ordinance. (Hdbk. 14-58-303)
- When a purchase exceeds \$20,000 the mayor or duly authorized representative should advertise in the local newspaper for competitive bids.
- Bids must be opened on the date and at the exact time and place described in the bid notice published in the newspaper.
- The mayor or duly authorized representative has the exclusive power to award the bid to the lowest responsible bidder.
- In emergency situations where the bidding procedure may not be feasible or practical the governing body by **ordinance** may waive the requirements of competitive bidding (Hdbk. 14-58-303).

Award bids can be controversial. The bidding process is usually highly competitive. Pressure can be exerted on all municipal officials. One of the best ways to avoid controversy is to carefully prepare bid specifications.

Careful bid specification will also increase chances of your getting what you want and within your budget. If you want specific options, accessories or particulars you feel will assist you in conducting the city's business, then state them in the bid specification. Under no circumstances should the bids be opened, reviewed or discussed until after the official bid opening. If provided in the specifications, the city can reject any and all bids.

Cities of the second class and incorporated towns have no requirement for bidding for these kinds of purchases, although a city could pass an ordinance to require such.

Here is an exception to the rule: Cities of the first class, second class and incorporated towns must take bids for any public improvements, which include the major repair or alteration or the erection of buildings or other structures or other permanent improvements, exceeding \$20,000 in costs. The law is found at Hdbk. 22-9-203, which also contains the procedure for taking bids for contracts for public improvements that exceed \$20,000.

## **Professional Services**

Competitive bids are not allowed when cities seek professional services. Professional services include contracts for legal, financial advisory, architectural, engineering services, construction management and land surveying (Hdbk. 19-11-802). Cities that need professional services should advertise for RFP (Request for Proposal) or RFQ (Request for Qualifications). The RFQ should be evaluated considering the qualifications and reputation of each professional firm. Many cities will ask a professional service representative to make an oral presentation to the entire city council prior to its making a selection.

Next, the city shall select three qualified firms and then select the most qualified (Hdbk. 19-11-804). Once a qualified professional firm has been selected, then the city may negotiate a contract for the desired professional service (Hdbk. 19-11-805).

## Chapter VI

### The Freedom of Information Act

The Arkansas Freedom of Information Act (FOIA) (Hdbk. 25-19-101 – 25-19-107) is a law with which all municipal officials should become familiar. Municipal officials who negligently violate the FOI Act may be penalized by a fine of \$200 or 30 days in jail or both.

The primary categories of attention for municipal officials should be:

- Public Records
- Open Meetings
- Executive Sessions

#### Public Records

“Public Records” are documents that are required by law to be kept and maintained. These would include the minutes from city council, planning and zoning, civil service, water and sewer, parks and recreation and any other meetings of a committee or commission established by ordinance or appointed by the mayor or city council. In addition, any public record, unless exempted by law, is subject to FOIA. Any citizen of the State of Arkansas may “inspect, copy, or receive copies of public records.” (Hdbk. 25-19-105). Citizens do not have to state a reason or purpose in order to inspect city records, the law says.

However, a request to inspect the records should be directed to the “custodian of the records” (usually the city clerk). The request **does not** have to be in writing, although this manual encourages city officials to ask (but not require) that anyone requesting to see or copy city records to make the request in writing because it provides a record if litigation occurs. If copies of public records are requested and if it is the policy of the city to charge a fee for copies, then the city may charge the actual costs of reproduction, but may not charge for the time of existing employees.

#### Open Meetings

All meetings of municipal governing bodies are required to be open to the public (Hdbk. 25-19-106). Because meetings “shall be public” any person may attend. A quorum of the governing body need not be present for the meeting to be subject to the FOI Act. For regular city council or other regular city meetings (water and sewer, planning and zoning, parks and recreation and others), notice must be furnished to anyone who requests that information. An official notice of when and where your regular meeting will take place should be given to the local news media. For emergency or special called meetings, at least two hours notice must be given to the news media located in the county and any news media located elsewhere which have requested to be notified before emergency or special meetings.

#### Executive Session

The only time the city council may meet and exclude the media and the public is in executive session. Executive sessions are permitted only for the purpose of considering employment, promotion, demotion, disciplinary action or resignation of any public officer or employee. In addition, an executive session is authorized for the discussion of public water system security measures in accordance with Ark. Code Ann. secs. 25-19-105(b)(18) and 25-19-106(c)(6)(B).

Actions discussed in executive session become legal only after the city council (or other governing body) ratifies the action with a public vote in open session. Meetings for the purpose of executive session still must be announced publicly. For example, “We are going into executive session to discuss the discipline of an employee.” You do not have to state the employee’s name publicly, however.

Unless the city attorney is being considered for employment, appointment, promotion, demotion or disciplinary action, then he/she may not meet in executive session with the mayor and city council. Likewise the city clerk, city recorder or town recorder should not be in executive session.

This has been a very brief discussion of a very complicated law. For further information, please refer to the *Arkansas Freedom of Information Handbook* (14<sup>th</sup> Edition) available from the League at 501-374-3484 or online at [www.arml.org](http://www.arml.org).

## **Chapter VII**

### **Functions of the Arkansas Municipal League**

#### **Purpose**

The Arkansas Municipal League, established in 1934, is an agency of the municipalities of Arkansas. The League has a voluntary membership and was created to assist cities with information and representation in the public affairs of our state and nation.

#### **Organization**

The Executive Committee is the governing body of the Municipal League. It is composed of 30 members, six officers elected at the annual League convention and 24 additional members appointed by the president.

Chosen by the Executive Committee, the executive director is responsible for administering the League's policies and programs. He selects his staff, and together they work to provide Arkansas municipalities the best in League services.

#### **League Activities**

- Annual Conventions—Each year the League sponsors a convention for officials from across the state. These officials gather to discuss mutual problems, discover new techniques and learn of new developments in local government. Outstanding speakers address officials on subjects of municipal concern. Many legislative issues are discussed at the convention, and the Municipal Policy Statement for the forthcoming year is adopted at the annual business meeting. Of course, no successful convention is all work. The convention delegates and their spouses enjoy the special activities provided for them.
- Other League Meetings—As the need arises, the League conducts training meetings. These special meetings assist municipal officials with current issues affecting them.

#### **League Services**

- Ordinance and Code Services—The ordinance and code services have become an important function of the League. Officials can request sample ordinances relative to almost any subject of municipal concern. The League also can assist a municipality in its drafting a new municipal code for a city, based on that city's existing or desired ordinances.
- Inquiry Service—All League staff members are available for assisting local officials with problems confronting their municipalities. Frequent questions concerning procedures for new officials and various League programs are answered by telephone, referrals, memorandums and surveys. Officials seeking information may also visit League headquarters to consult directly with staff members. League staff members also attend council meetings throughout the state, on request, as time permits.
- Planning Services—Group seminars and individual consultation are available to League members on various municipal planning projects.

## Publications

During each session of the Arkansas General Assembly, members of the League staff analyze the proposed measures that affect the state’s municipalities. The *Legislative Bulletin* is updated daily on [www.arml.org](http://www.arml.org) and enables the municipal officials to advise their representatives of the impact of various proposals.

*City & Town* is the official publication of the Arkansas Municipal League. It is published 12 times a year and contains information of interest to municipal officials.

The *Handbook for Arkansas Municipal Officials* is published every other year after the regular session of the General Assembly. It includes laws that affect Arkansas municipalities and has become an important source of information on which municipal officials have come to depend.

Annual publications of the League include the *Directory of Municipal Officials* and the *Salary Survey*. The *Directory* contains a list of League member cities, their officials, city addresses, telephone and fax numbers, e-mails and Web sites. City classification and the county in which the city is located are also included.

The League periodically updates other publications such as:	
<i>Act 833 Fire Services Book</i>	FREE
<i>ADA Compliance Guide</i>	FREE
<i>Avoiding Lawsuits</i>	FREE
<i>Directory for Arkansas Municipal Officials</i>	\$25.00
<i>Drug Testing Steps to Compliance</i>	FREE
<i>Emergency Preparedness</i>	FREE
<i>Freedom of Information Handbook</i>	FREE
<i>Great Cities Make a Great State</i>	FREE
<i>Guidebook for Municipal Officials of City Manager/Administrator Cities</i>	FREE
<i>Guidebook for Officials in Mayor/Council Cities and Towns</i>	FREE
<i>Handbook for Arkansas Municipal Officials (members)</i>	\$75.00
<i>Legal Tools to Help Keep Your City Clean</i>	FREE
<i>Municipal Annexation, Incorporation and Boundary Changes</i>	FREE
<i>Municipal Law in Arkansas: Questions and Answers</i>	FREE
<i>Procedural Rules for Municipal Officials</i>	FREE
<i>Sales Taxes Booklet</i>	FREE
<i>Sample Personnel Policies Manual</i>	FREE
<i>Technical Codes Adoption and Implementation</i>	FREE
Many of these publications may be downloaded from the League’s Web site, <a href="http://www.arml.org">www.arml.org</a> on the “Publications” page.	

## **Group Benefits Programs**

The Arkansas Municipal League provides the officials and employees of Arkansas cities and towns with group programs such as the **Municipal Health Benefit Fund** and the **Municipal Officials Accidental Death and Dismemberment Plan**. The **Municipal Vehicle Program** is a program which provides low-cost vehicle coverage to member cities and towns.

The **Municipal League Workers' Compensation Trust** protects municipal workers in more than 480 cities and towns. The League's **Volunteer Firefighter Accident Income Protection Plan** is a popular League Program available to cities and towns participating in the Workers' Compensation Trust. The **Municipal Property Program** was established in 1985.

The **Municipal Legal Defense Program** is another service for League members. A steering committee governs the plan with the executive director and his staff administering the program. Participating municipalities contribute annually amounts based primarily on their population. Through this program municipalities, municipal officials and employees are provided protection against lawsuits involving their assets. Cities and towns in this program can also participate in the League's drug testing programs. Cities and towns in the Legal Defense Program may request written and oral legal opinions on municipal law.

The **Municipal League Cash/Pension Management Trust** is an optional program whereby Arkansas municipalities can place excess cash funds or pension investments in a safe and competitive account that provides excellent liquidity. Participant municipalities join together to invest moneys not currently needed to enhance their investment opportunities and increase investment earnings. In most cases invested funds will be available for withdrawal within 24 hours. A **Grants Assistance Program** advises cities and towns to find, obtain and execute grants.

## **Conclusion**

The Arkansas Municipal League, 75 years old, serves member cities and towns and addresses their current and future needs. The League has been and will continue to be at the forefront of municipal progress and problem solving as long as Arkansas's municipal officials remain active and maintain it as a viable organization. When the League staff can be of service, please call.





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