

January 25, 1951.
Cities and Towns.

House File 198

By NELSON of Woodbury and CROSIER,
(Hattery and Dykhouse).

Passed House, Date

Vote: Ayes..... Nays.....

Passed Senate, Date.....

Vote: Ayes..... Nays.....

Approved

A BILL FOR

An Act to define the general powers and duties of municipal officers and to repeal various sections of the Code relating thereto and to enact substitutes therefor.

Be It Enacted by the General Assembly of the State of Iowa:

GENERAL POWERS AND DUTIES OF MUNICIPAL OFFICERS

The Administration

1 Section 1. The council. In all municipal corporations,
2 except when otherwise provided by laws relating to a specific
3 form of municipal government, the council shall:

4 1. First meeting. After taking office, assemble, organize
5 and appoint a clerk.

6 2. Meetings. Determine the time and place of holding
7 their meetings, which at all times shall be open to the public,
8 and in the absence of the mayor or clerk appoint a temporary
9 chairman or clerk, as the case may be, from their own number,
10 which appointment shall be entered of record. A majority of
11 the whole number of members to which the corporation is entitled
12 shall be necessary to constitute a quorum.

13 3. Special meetings. Hold special meetings when called by

14 the mayor or a majority of the members of the council. Notice
15 thereof shall be given personally or left at the usual place of
16 residence of each member of the council, and a record of the
17 services of notice made by the clerk.

18 4. Rules—journal. Determine the rules of their own
19 proceedings, and cause to be kept a journal thereof which
20 shall be open to public inspection.

21 5. Attendance of members. Have power to compel the attend-
22 ance of absent members in such manner and under such penalties
23 as they may prescribe.

24 6. Seal. Cause to be provided a seal in the center of
25 which shall be the name of the city or town, and around the
26 margin the words “city seal” or “town seal”, as the case may be,
27 which shall be affixed to all transcripts, orders, or certifi-
28 cates which it may be necessary or proper to authenticate.

29 7. Appointments. Have power to appoint an attorney,
30 engineer, health officer, and such other officers, assistants
31 and employees as are provided by ordinance and are necessary for
32 the proper and efficient conduct of the affairs of the municipal
33 corporation, and fix the terms of employment which may include
34 vacations and sick leave.

35 8. Election for filling vacancies. Elect by ballot persons
36 to fill vacancies in offices not filled by election by the
37 council, and the person receiving a majority of the votes of
38 the whole number of members shall be declared elected to fill
39 the vacancy.

40 9. Term of officers. Fix by ordinance the terms of service,
41 which shall not exceed two years, of all officers whose terms
42 are not prescribed by law.

43 10. Powers of officers. Prescribe by ordinance the powers
44 to be exercised and duties performed by officers insofar as
45 such powers and duties are not defined by law.

46 11. Defend employees. Have power to direct the city attorney,
47 or to employ an attorney, to defend any municipal officer or
48 employee in any cause of action arising out of or in the course
49 of the performance of the duties of his office or employment and
50 to pay the costs of such defense.

51 12. Liability insurance. Have power to purchase and pay
52 the premiums on liability and property damage insurance covering
53 and insuring municipal employees while in the performance of
54 their duties and operating an automobile, truck, road grader,
55 machinery or other vehicles owned or used by the municipal
56 corporation, which insurance shall insure, cover, and protect
57 against any liability the municipal employee or the municipal
58 corporation may incur.

59 13. Surety bond. Have power to purchase a surety bond
60 running to the municipal corporation and covering all municipal
61 officers and employees for the purpose of indemnifying the
62 municipal corporation against any loss occasioned through em-
63 bezzlement of municipal funds by any municipal officer or
64 employee. (363.11, 363.12, 363.15, 363.36, 416.52, 419.37, C50,
65 revised and combined.)

1 Sec. 2. The mayor. In all municipal corporations, the
2 mayor shall have the following powers and perform the following
3 duties except when otherwise provided by laws relating to
4 specific forms of municipal government.

5 1. Executive officer—magistrate. He shall be a conserva-
6 tor of the peace, and, within the limits of the corporation,
7 shall have all the powers conferred upon sheriffs to suppress
8 disorders. He shall be the chief executive officer thereof,
9 and it shall be his duty to enforce all regulations and ordi-
10 nances; he may, upon view, arrest anyone guilty of a violation
11 thereof, or of any crime under the laws of the state, and
12 shall, upon information supported by affidavit, issue process
13 for the arrest of any person charged with violating any
14 ordinance of the corporation; shall supervise the conduct of
15 all corporate officers, examine into the grounds of complaint
16 made against them, and cause all neglect or violation of duty
17 to be corrected, or report the same to the proper tribunal, that
18 they may be dealt with as provided by law.

19 2. Office. He shall keep an office at some convenient
20 place in the city or town, to be provided by the council, and
21 provide for the keeping of the corporate seal thereof.

22 3. Signature. He shall sign all commissions, licenses,
23 and permits granted by the authority of the council, and do such
24 other acts as by law or ordinance may require his signature or
25 certificate.

26 4. Treasurer—appointment. He shall appoint the treasurer

27 and such appointment shall be subject to approval by the council.
28 However, in lieu of such appointment, the council may, by ordi-
29 nance, provide for the election at large of the treasurer at the
30 regular municipal election.

31 5. Other duties. He shall perform such other duties
32 compatible with the nature of his office as the council may
33 from time to time require.

34 6. Presiding officer—vote. He shall be the presiding
35 officer of the council with the right to vote only in case of
36 a tie. (363.18, C50, revised.)

37 (Mayor's court, see ch. 367 as amended.)

1 Sec. 3. The clerk. In all municipal corporations the
2 clerk shall perform the following duties:

3 1. Attend all meetings of the council, but in no event
4 have the right to vote on any question before it.

5 2. Make an accurate record of and have custody of all
6 proceedings had, rules and ordinances adopted by the council,
7 and the same shall at all times be open to the public.

8 3. Immediately following a regular or special meeting of
9 the city or town council, the clerk shall prepare a condensed
10 statement of the proceedings of said council, including the
11 total expenditure from each municipal fund, and
12 cause the same to be published in a newspaper of general
13 circulation in the city or town. Failure by the clerk to make
14 such publication shall constitute a misdemeanor.

15 4. Supply the treasurer with a statement of all warrants

16 issued after each meeting, giving the number and amounts of
17 each.

18 5. Upon order of the council, destroy all records and
19 papers, other than proceedings, ordinances, and instruments
20 having to do with real estate and bond issues, which are more
21 than ten years old, or offer such of same as may be of historical
22 interest to a historical society or public library.

23 6. Perform such duties as may be required by the council.

24 7. Perform such duties in respect to elections and other
25 matters as are required by law. (363.19, 366.10, C50, revised.)

1 Sec. 4. The treasurer. In all municipal corporations the
2 treasurer shall perform the following duties:

3 1. He shall receive all money payable to the corporation,
4 and disburse same only on warrants drawn and signed by the
5 proper officer.

6 2. He shall make returns monthly, or oftener if required
7 by the council, to the officer drawing such warrants, showing
8 the warrants paid and the amount of principal and interest paid.

9 3. He shall make a written report under oath to the council
10 at its first regular meeting in each month, showing the balance
11 in each fund of the corporation at the end of the preceding
12 month.

13 4. He shall not loan or in any manner use for private
14 purposes any funds coming into his hands as treasurer.

15 5. He shall give bond in such sum as is fixed by the
16 council and the cost of said bond, not to exceed one per cent

17 per annum, shall be paid by the municipal corporation. (363.23-
18 363.28, C50, revised.)

19 (Appointment or election, see sec. 2, subsection 4 of
20 this bill.)

Accounts and Accounting Officers.

1 Sec. 5. Accounts. All cities and towns shall establish
2 and keep their accounts so the same shall exhibit a true and
3 detailed statement of all public funds collected, received,
4 and expended on account of such municipal corporation for any
5 purpose whatever, by any and all public officers, employees
6 or other persons. Such accounts shall show the receipt, use,
7 and disposition of all public property, and the income, if any,
8 derived therefrom, and of all sources of public income and the
9 amount due and received from each source. All receipts, vouchers,
10 and other documents kept, or that may be required to be kept,
11 necessary to prove the validity of every transaction and the
12 identity of every person having any beneficial relation thereto,
13 shall be filed and preserved in the office of the clerk or
14 recorder as the case may be. (363.49, 420.40, unchanged.)

15 (Destruction of old records, see sec. 3(6) of this bill.)

1 Sec. 6. Separate accounts. Separate accounts shall be
2 kept for every appropriation, showing date and manner of each
3 payment made out of the funds provided by such appropriation,
4 the name and address of each person or corporation to whom paid,
5 and for what purpose paid.

6 Separate accounts shall be kept for each department, public

7 improvement, or undertaking, and for each public utility owned
8 or operated by the said municipality.

9 Said separate accounts for each public utility shall show
10 the true and entire cost of the said utility and the operation
11 thereof, the amount collected annually by general or special
12 taxation for the services rendered to the public, and the
13 amount and character of the services rendered therefor, and the
14 amount collected annually from private users, if any, for the
15 services rendered to them, and the amount and character of the
16 services rendered therefor. (363.50, 420.30, unchanged.)

17 (Annual examination, see sec. 11.18, C50.)

1 Sec. 7. Accounting officers—reports. All accounting
2 officers of all boards, commissions, departments, and offices
3 within the municipal corporation receiving or disbursing public
4 funds shall file with the auditor or clerk within thirty days
5 from the expiration of the municipal fiscal year, a detailed
6 report in writing showing the receipts and disbursements of
7 all funds in the department, board, or commission in question
8 for said fiscal year. (363.53, 420.29, C50, unchanged.)

1 Sec. 8. Penalty. The failure to make the said report shall
2 constitute a misdemeanor. (363.53, 420.29, unchanged.)

3 (Punishment, 687.7, C50.)

1 Sec. 9. Annual reports. Each city or town shall, through
2 its chief accounting and warrant issuing officer, make an annual
3 public report which shall contain an accurate statement in
4 summarized form of all collections made or receipts of the

5 municipal corporation from all sources, all accounts due the
6 public but not collected, and all expenditures for every purpose,
7 and, except as otherwise provided by law, a statement in detail
8 of the cost of operation and income of each public utility
9 operated or owned by the municipality. It shall show in detail
10 the entire public debt of the municipality and the amount of
11 debt which it may under the law contract for the year in which
12 the report is made. (363.54, 420.29, C50, unchanged.)

13 (Debt limit, ch. 407, C50; Const. Iowa II,3.)

1 Sec. 10. Enforcement of duty. The auditor or clerk may
2 institute legal proceedings to enforce the making of said
3 reports. (363.55, 420.29, C50, unchanged.)

1 Sec. 11. Publication. The annual report shall be published
2 in a newspaper of general circulation in the city or town.
3 (363.56, 420.29, C50, revised.)

4 (Cost of publication, 618.11, C50.)

1 Sec. 12. Report to state auditor. On or before the first
2 secular day in February of each year, the official making the
3 report for each city or town shall forward to the auditor of
4 state a certified copy of the annual report. If such official
5 fails to file his report with the auditor of state within the
6 time prescribed, the auditor may send an examiner or examiners
7 to make the report and the expenses thereof shall be charged
8 against the delinquent city or town. (363.57, 420.29, C50,
9 revised.)

1 Sec. 13. Report—by whom made. It shall be the duty of

2 the auditor or clerk who served in the capacity during the time
3 covered by the report, to prepare and file the same, and if
4 said official has retired from office, the council shall allow
5 him such compensation for preparing the report as may be deemed
6 proper. (363.58, 420.29, C50, revised.)

1 Sec. 14. Warrants—how drawn. The auditor, clerk, or other
2 officer of cities and towns whose duty it is to draw the warrants
3 thereof, shall not draw any such warrant except upon the vote
4 of the council. (363.20, C50, unchanged.)

1 Sec. 15. List of warrants. The officer drawing such war-
2 rants shall, on or before the tenth day of each month, furnish the
3 council a sworn and complete list of all warrants, and the amount
4 thereof, drawn by him during the preceding month, which list
5 shall state on whose account and the object and purpose for
6 which each warrant was drawn. (363.21, 420.28, C50, unchanged.)

1 Sec. 16. Prohibitions as to warrants. All the provisions
2 of sections three hundred thirty-four point three (334.3),
3 three hundred thirty-four point four (334.4), three hundred
4 forty-three point seven (343.7) to three hundred forty-three
5 point nine (343.9), inclusive, Code 1950, shall be applicable
6 to cities and towns, their officers and employees, subject
7 only to such modifications as may be necessary therefor.
8 (363.22, C50, unchanged.)

Police Department

1 Sec. 17. The marshal. The marshal shall be ex officio
2 chief of police and may appoint one or more deputy marshals,

3 who may perform his duties, and who, in cities of fifteen
4 thousand or more population shall be members of the police
5 force. He shall have the supervision and general direction of
6 the police force, and shall be the ministerial officer of the
7 corporation. He shall suppress all riots, disturbances, and
8 breaches of the peace, arrest all disorderly persons in the city
9 or town and all persons committing any offense against the
10 ordinances thereof, and forthwith bring such persons before the
11 proper court for examination or trial. He shall pursue and
12 arrest any person fleeing from justice, and shall diligently
13 enforce all laws, ordinances, and regulations for the preservation
14 of the public welfare and good order, and shall have the same
15 powers and duties as constables in similar cases. He shall
16 attend upon the sittings of the mayor's and police court, and
17 execute within the county and return all writs and other
18 processes directed to him therefrom. (363.30, C50, revised.)

19 (Duty to enforce vehicle law, 321.6, C50.)

20 (Duty to enforce liquor law, 126.1-126.3, C50.)

21 (Constables, 601.121, 601.122, 748.4, C50.)

1 Sec. 18. Policemen. The officers and members of the police
2 force shall have such powers and perform such duties as may be
3 provided by law or ordinance, and shall have the same powers
4 as marshals to make arrests and suppress riots, disturbances,
5 and breaches of the peace. (363.31, C50, unchanged.)

1 Sec. 19. Police matrons. Police matrons shall have charge
2 of all the women and children under arrest, accompanying to

3 court such as may require such aid. They shall be subject to
4 the authority of the marshal and the rules and regulations
5 prescribed by his authority, and in stations, when on duty,
6 shall be subject to the authority of the officers in command.
7 In cities where workhouses are established for the detention
8 of women, or where there are houses of detention, they shall
9 have at all times the right of entering such establishments,
10 and shall visit them whenever in their judgment such visits
11 may be necessary. A suitable place shall be provided for the
12 police matrons, when not on duty, for rest and refreshment.
13 (363.32, C50, unchanged.)

Other Officers

1 Sec. 20. Other officers. The city attorney, engineer,
2 auditor, physician, and such additional officers as may be
3 provided for, shall have such powers and perform such duties
4 as are prescribed by law or ordinance. (363.33, C50, revised.)

General Restrictions on Municipal Officers

1 Sec. 21. Ineligibility—change of compensation. No member
2 of any city or town council shall, during the time for which
3 he has been elected, be appointed to any municipal office which
4 has been created or the emoluments of which have been increased
5 during the term for which he was elected, nor shall the emol-
6 uments of any city or town officer be changed during the term
7 for which he has been elected. No person who shall resign or
8 vacate any office shall be eligible to the same during the time
9 for which he was elected, when, during the time, the emoluments

10 of the office have been increased. (363.46, C50, unchanged.)

1 **Sec. 22. Interest in contracts.** No officer, including
2 members of the city council, shall be interested, directly or
3 indirectly, in any contract or job of work or material or
4 the profits thereof or services to be furnished or performed
5 for the city or town. (363.47, unchanged, 416.58, 419.42, C50.)

1 **Sec. 23. Free passes.** No such officer shall accept or
2 receive, directly or indirectly, from any person, firm, or
3 corporation operating within the said city or town any railway,
4 interurban railway, street railway, gasworks, waterworks,
5 electric light or power plants, telegraph line, or telephone
6 exchange, or other business using a public franchise, any
7 frank, free pass, or ticket, or other service upon terms more
8 favorable than is granted to the public generally, except
9 where, by franchise granted by the municipal corporation to
10 any such person or corporation, any officers of said municipal
11 corporation are granted such privileges as part of such franchise,
12 and except that members of the police and fire departments of
13 any city or town shall be carried without charge. Any violation
14 of the provisions of this section or section twenty-four of
15 this chapter shall be a misdemeanor. The provisions of this
16 section shall not prohibit the acceptance and use of free
17 passes under the provisions of section four hundred seventy-
18 nine point ninety-four (479.94). (363.48, C50, revised to apply
19 to all municipal corporations.)

1 **Sec. 24. Publication by state auditor.** Chapter eleven (11)

2 of the Code is amended by adding the following section:

3 "The auditor of state shall prepare the annual reports
4 certified to him under the provisions of the Chapter on the
5 powers and duties of municipal officers for publication in a
6 separate volume. Said reports shall show under appropriate
7 schedules the total receipts and expenditures, assets and
8 indebtedness, and related date of all cities and towns in the
9 state, together with comments and recommendations respecting
10 desirable changes in the law governing financial administration
11 in municipal corporations." (363.59, C50, substance unchanged.)

1 Sec. 25. Section three hundred sixty-three point eleven
2 (363.11), Code 1950, is hereby repealed.

3 (Appointment of clerk, see sec. 1(1) of this bill.)

4 (Other appointments, see secs. 1(7) and 2(4) of this bill.)

1 Sec. 26. Section three hundred sixty-three point eighteen
2 (363.18), Code 1950, is hereby repealed.

3 (Powers and duties of mayor, see sec. 2 of this bill.)

1 Sec. 27. Section three hundred sixty-three point nineteen
2 (363.19), Code 1950, is hereby repealed.)

3 (Powers and duties of clerk, see sec. 3 of this bill.)

1 Sec. 28. Sections three hundred sixty-three point twenty
2 (363.20), to three hundred sixty-three point twenty-two (363.22),
3 inclusive, Code 1950, are hereby repealed.

4 (Warrants, see secs. 14 to 16 of this bill.)

1 Sec. 29. Sections three hundred sixty-three point twenty-
2 three (363.23) to three hundred sixty-three point twenty-eight

3 (363.28), inclusive, Code 1950, are hereby repealed.

4 (Treasurer, see sec. 4 of this bill.)

1 Sec. 30. Sections three hundred sixty-three point thirty
2 (363.30) to three hundred sixty-three point thirty-three (363.33),
3 inclusive, Code 1950, are hereby repealed.

4 (Marshal, see sec. 17 of this bill.)

5 (Policemen, see sec. 18 of this bill.)

6 (Matrons, see sec. 19 of this bill.)

7 (Other officers, see sec. 20 of this bill.)

1 Sec. 31. Section three hundred sixty-three point thirty-
2 six (363.36), Code 1950, is hereby repealed.

3 (Powers and duties of council, see sec. 1 of this bill.)

1 Sec. 32. Sections three hundred sixty-three point forty-
2 six (363.46) to three hundred sixty-three point forty-eight
3 (363.48), inclusive, Code 1950, are hereby repealed.

4 (Restrictions on municipal officials, see secs. 21 to 23
5 of this bill.)

1 Sec. 33. Sections three hundred sixty-three point forty-
2 nine (363.49) to three hundred sixty-three point fifty-nine
3 (363.59), inclusive, Code 1950, are hereby repealed.

4 (Accounts and accounting officers, see secs. 5 to 16 of
5 this bill.)

1 Sec. 34. Section three hundred sixty-six point ten (366.10),
2 Code 1950, is hereby repealed.

3 (Publication of council proceedings, see sec. 3(3) of this
4 bill.)

1 Sec. 35. Section four hundred sixteen point ninety-five
2 (416.95), Code 1950, is hereby repealed.

1 Sec. 36. Section four hundred sixteen point one hundred
2 nine (416.109), Code 1950, is hereby repealed.

1 Sec. 37. Section four hundred sixteen point one hundred ten
2 (416.110), Code 1950, is hereby repealed.

3 (Annual examination, see 11.18, C50.)

1 Sec. 38. Sections four hundred sixteen point fifty-eight
2 (416.58) to four hundred sixteen point sixty-one (416.61),
3 inclusive, and four hundred nineteen point forty-two (419.42),
4 Code 1950, are hereby repealed.

5 (Restrictions on municipal officials, see secs. 2 to 23
6 of this bill.)

1 Sec. 39. Sections four hundred twenty point twenty-six
2 (420.26) to four hundred twenty point thirty (420.30), inclusive,
3 Code 1950, are hereby repealed.

1 Sec. 40. The explanatory material, notes and historical
2 references incorporated in this bill shall not be considered
3 as any part of the enactment hereof and shall not be included
4 in the enrolled act.

EXPLANATION OF H. F. 198

The purpose of this bill is to collect, revise, and codify the scattered provisions of Title XV of the Code which relate to the powers and duties of municipal officers generally applicable to all municipal corporations.