

TITLE I – POLICY AND ADMINISTRATION

CHAPTER 5
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5.01 OATHS. The oath of office shall be required and administered in accordance with the following:

1. **Qualify for Office.** All elected officers and the following appointed officers shall qualify for office by taking the prescribed oath and by giving, when required, a bond:
 - A. City Clerk
 - B. Deputy City Clerk
 - C. Peace Officers

The oath shall be taken, and bond provided, after being certified as elected, but not later than noon of the first day which is not a Sunday or a legal holiday in January of the first year of the term for which the officer was elected.

(Code of Iowa, Sec. 63.1)

2. **Prescribed Oath.** The prescribed oath is: "I, (name), do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Iowa, and that I faithfully and impartially, to the best of my ability, discharge all duties of the office of (name of office) in Garwin as now or hereafter required by law."

(Code of Iowa, Sec. 63.10)

3. **Officers Empowered to Administer Oaths.** The following are empowered to administer oaths and to take affirmations in any matter pertaining to the business of their respective office:

- A. Mayor
- B. City Clerk
- C. Members of all boards, commissions or bodies created by law.

(Code of Iowa, Sec. 78.2)

5.02 BONDS. Surety bonds are provided in accordance with the following:

1. Required. The Council shall provide by resolution for a surety bond or blanket position bond running to the City and covering the Mayor, Clerk, Treasurer and such other officers and employees as may be necessary and advisable.
(Code of Iowa, Sec. 64.13)
2. Surety. Any association or incorporation which does the business of insuring the fidelity of others, and which has authority by law to do business in the State, shall be accepted as surety upon any bonds required.
(Code of Iowa, Sec. 64.17)
3. Bonds Approved. Bonds shall be approved by the Council.
(Code of Iowa, Sec. 64.13)
4. Bonds Filed. All bonds, after approval and proper record, shall be filed with the Clerk.
(Code of Iowa, Sec. 64.23[6])
5. Record. The Clerk shall keep a book, to be known as the "Record of Official Bonds" in which shall be recorded the official bonds of all City officers, elective or appointive.
(Code of Iowa, Sec. 64.24[3])

5.03 DUTIES: GENERAL. Each municipal officer shall exercise the powers and perform the duties prescribed by law and Code of Ordinances, or as otherwise directed by the Council unless contrary to State law or City charter.

(Code of Iowa, Sec. 372.13[4])

5.04 BOOKS AND RECORDS. All books and records required to be kept by law or ordinance shall be open to inspection by the public upon request, unless some other provisions of law expressly limit such right or require such records to be kept confidential.

(Code of Iowa, Sec. 22.1 and 22)

5.05 TRANSFER TO SUCCESSOR. Each officer shall transfer to the officer's successor in office all books, papers, records, documents and property in the officer's custody and appertaining to that office.

(Code of Iowa, Sec. 372.13[4])

5.06 OPEN MEETINGS. All meetings of the Council, any board or commission, or any multi-membered body formally and directly created by any of the foregoing bodies shall be held in open session unless closed sessions are expressly permitted by law. Notice of any such meeting shall be provided pursuant to law.

(Code of Iowa, Sec. 21.3 and 21.4)

5.07 CONFLICT OF INTEREST. A City officer or employee shall not have an interest, direct or indirect, in any contract or job of work or material or the profits thereof or services to be

furnished or performed for the City, unless expressly permitted by law. A contract entered into in violation of this section is void. The provisions of this section do not apply to:

(Code of Iowa, Sec. 362.5)

1. Compensation of Officers. The payment of lawful compensation of a City officer or employee holding more than one City office or position, the holding of which is not incompatible with another public office or is not prohibited by law.
(Code of Iowa, Sec. 362.5)
2. Investment of Funds. The designation of a bank or trust company as a depository, paying agent, or for investment of funds.
(Code of Iowa, Sec. 362.5)
3. City Treasurer. An employee of a bank or trust company, who serves as Treasurer of the City.
(Code of Iowa, Sec. 362.5)
4. Stock Interest. Contracts in which a City officer or employee has an interest solely by reason of employment, or a stock interest of the kind described in subsection eight (8) of this section, or both, if the contract is for professional services not customarily awarded by competitively bid, if the remuneration of employment will not be directly affected as a result of the contract, and if the duties of employment do not directly involve the procurement or preparation of any part of the contract.
(Code of Iowa, Sec. 362.5)
5. Newspaper. The designation of an official newspaper.
6. Existing Contracts. A contract in which a City officer or employee has an interest if the contract was made before the time the officer or employee was elected or appointed, but the contract may not be renewed.
(Code of Iowa, Sec. 362.5)
7. Volunteers. Contracts with volunteer fire fighters or civil defense volunteers
(Code of Iowa, Sec. 362.5)
8. Corporations. A contract with a corporation in which a City officer or employee has an interest by reason of stock holdings when less than five percent (5%) of the outstanding stock of the corporation is owned or controlled directly or indirectly by the officer or employee or the spouse or immediate family of such officer or employee.
(Code of Iowa, Sec. 362.5)
9. Contracts. Contracts made by the City upon competitive bid in writing, publicly invited and opened.
(Code of Iowa, Sec. 362.5)
10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services which benefit a City officer or employee, if the purchases

benefiting that officer or employee do not exceed a cumulative total purchase price of fifteen hundred dollars (\$1500.00) in a fiscal year.

(Code of Iowa, Sec. 362.5)

5.08 TERMS OF APPOINTED OFFICERS. The term of all appointed officers that are not otherwise fixed by law or ordinance shall be two (2) years, such terms expiring at the time of the organizational meeting of the Council in January following the regular municipal election and the appointment of a successor.

(Code of Iowa, Sec. 372.13[4])

5.09 RESIGNATIONS. An elected officer who wishes to resign may do so by submitting a resignation in writing to the Clerk so that it shall be properly recorded and considered. A person who resigns from an elective office is not eligible for appointment to the same office during the time for which the person was elected, if during that time the compensation of the office has been increased.

(Code of Iowa, Sec. 372.13[9])

5.10 REMOVAL OF APPOINTED OFFICERS AND EMPLOYEES. Except as otherwise provided by State or City law, all persons appointed to City office or employment may be removed by the officer or body making the appointment, but every such removal shall be by written order. The order shall give the reasons, be filed in the office of the Clerk, and a copy shall be sent by certified mail to the person removed, who, upon request filed with the Clerk within thirty (30) days after the date of mailing the copy, shall be granted a public hearing before the Council on all issues connected with the removal. The hearing shall be held within thirty (30) days after the date the request is filed, unless the person removed requests a later date.

(Code of Iowa, Sec. 372.15)

5.11 VACANCIES. A vacancy in an elective City office during a term of office shall be filled, at the Council's option, be one of the two following procedures:

(Code of Iowa, Sec. 372.13[2])

1. Appointment. By appointment following public notice by the remaining members of the Council within forty (40) days after the vacancy occurs, except that if the remaining members do not constitute a quorum of the full membership, or if a petition is filed requesting an election, the Council shall call a special election as provided by law.

(Code of Iowa, Sec. 372.13[2a])

2. Election. By a special election held to fill the office for the remaining balance of the unexpired term as provided by law.

(Code of Iowa, Sec. 372.13[2b])

5.12 UNLAWFUL USE OF CITY PROPERTY. No person shall use or permit any other person to use the property owned by the City for any private and for personal gain, to the detriment of the City.

(Code of Iowa, Sec. 721.2[5])

5.13 GIFTS. The following regulations shall apply to the soliciting, acceptance or reporting of gifts by City officials or employees:

1. **Donee Reporting of Gifts.** An elected or appointed official or employee of the City or the spouse or minor child of an elected or appointed official or employee of the City or a firm of which the elected or appointed official or employee of the City is a partner or to a corporation of which the elected or appointed official or the employee of the City holds ten percent (10%) or more of the stock either directly or indirectly, shall disclose in writing on a report form developed by the Secretary of State the nature, date, and the name of the donor and the name of such person as donee to which a gift or gifts were made where the gift or gifts exceed fifteen dollars (\$15.00) in cumulative value in any one calendar day. However, the donee need not report food and beverage provided for immediate consumption in the presence of the donor. By the fifteenth day of the month following the month in which the gift was received, a copy of the report disclosing the gift or gifts shall be filed in the office of the County Auditor.
2. **Donor Reporting of Gifts.** A donor of a gift to an elected or appointed official or employee of the City or the spouse or minor child of an elected or appointed official or employee of the City or to a firm of which the elected or appointed official or employee of the City is a partner or to a corporation of which the elected or appointed official or the employee of the City holds ten percent (10%) or more of the stock either directly or indirectly, shall disclose in writing on a report form developed by the Secretary of State the nature, amount, date and the name of the donor and the name of the donee of a gift or gifts made by the donor which gift or gifts exceed fifteen dollars (\$15.00) in cumulative value in any one calendar day. However, the donor need not report food and beverage provided for immediate consumption in the presence of the donor. By the fifteenth day of the month following the month in which the gift was received, a copy of the report disclosing the gifts or gifts shall be filed by the donor with the County Auditor.
3. **Definition of Gift.** For purposes of this section, “gift” is defined as follows:
 - A. “Gift” means a rendering of money, property, services, granting a discount, loan forgiveness, payment of indebtedness or anything else of value in return for which legal consideration of equal or greater value is not given and received, if the donor is in any of the following categories:
 - (1) Is doing or seeking to do business of any kind with the City. For purposes of this section, “doing business with the City” means being a party to any one or any combination of sales, purchases, leases or contracts to, from or with the City;
 - (2) Is engaged in activities which are regulated or controlled by the City;
 - (3) Has interests which may be substantially and materially affected by the performance or nonperformance of the donee’s official duty;

(4) Is a lobbyist with respect to matters within the donee's jurisdiction;

B. However, "gift" does not mean any of the following:

(1) Campaign contributions;

(2) Informational material relevant to a public servant's official functions, such as books, pamphlets, reports, documents or periodicals and registration fees or tuition not including travel or lodging, for not more than three days, at seminars or other public meetings conducted in the State, at which the public servant receives information relevant to the public servant's official functions. Information or participation received under the exclusion of this paragraph may be applied to satisfy a continuing education requirement of the donee's regulated occupation or profession if the donee pays any registration costs exceeding thirty-five dollars (\$35.00);

(3) Anything received from a person related within the fourth degree by kinship or marriage, unless the donor is acting as an agent or intermediary for another person not so related;

(4) Any inheritance;

(5) Anything available to or distributed to the public generally without regard to official status of the recipient;

(6) Food, beverages, registration, and scheduled entertainment at group events to which all members of either house or both houses of the General Assembly are invited. "Member of the General Assembly" means an individual duly elected to the Senate or House of Representatives of the State;

(7) Actual expenses for food, beverages, travel, lodging, registration and scheduled entertainment of the donee for a meeting, which is given in return for participation in a panel or speaking engagement at the meeting;

(8) Plaques or items of negligible resale value given as recognition for public services;

C. The value of the gift is determined as follows:

(1) An individual making a gift on behalf of more than one person shall not divide the value of the gift by the number of persons on whose behalf the gift is made;

(2) The value of a gift to the donee is the value actually received;

- (3) For the purposes of the reporting requirements of this section, a donor of a gift made by more than one individual to one or more donees shall report the gift if the total value of the gift to the donee exceeds fifteen dollars (\$15.00).
