

## ORDINANCE 2020-2

BE IT ENACTED by the City Council of the city of Avoca, Pottawattamie County, Iowa:

SECTION 1: Purpose. The purpose of this ordinance is to adopt the revised Chapter 2 of the Avoca city Code published in 2014.

SECTION 2: Amended: Chapter 2

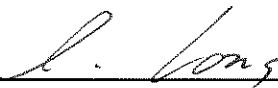
SECTION 3: Repealer: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4: Severability: If any section, provision or part of this ordinance shall be adjudged to be unconstitutional or invalid, such adjudication shall not affect the validity of this ordinance as a whole, or any section, provision or part thereof not adjudged unconstitutional or invalid.

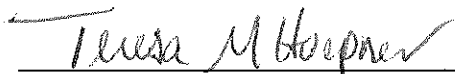
SECTION 5: Effective Date: This ordinance shall be effective from and after its final passage, approval and publication as proved by law.

First Reading Passed: May 19, 2020

Second and Third Reading: Waived

  
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Aaron Long, Mayor

ATTEST:

  
\_\_\_\_\_  
Teresa M Hoepner, City Clerk

### Chapter 2: Officers of the Municipal Corporation

- 2.1 **Municipal Officers.** Each municipal officer shall exercise the powers and perform the duties prescribed by law or this Code.
- 2.2 **Oath.** The oath of office shall be required and administered in accordance with the following:
  - A. **Qualify for Office.** All elected officers and the following appointed officers shall qualify for office by taking the prescribed oath:
    1. Mayor
    2. City Council
    3. Mayor Pro Tem
    4. City Administrator
    5. City Attorney
    6. City Clerk

- B. 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 will faithfully and impartially, to the best of my ability, discharge all duties of the office of (name of office) as now or hereinafter required by law."
- C. 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:
1. **Mayor**
  2. **City Clerk**
  3. **City Administrator**
  4. **Members of all boards, commissions or bodies created by law**
- 2.3 Bonds.** The City shall provide a surety bond running to the City and covering the Mayor, Mayor Pro Tem, Administrator, Clerk, Council, and such other officers and employees as may be necessary and advisable.
- 2.4 General Responsibility of Appointed Officials.** The responsibility of appointed officers shall be as follows:
- A.** City administrator, City Attorney and City Clerk shall be directly responsible to the council.
  - B.** All employees and staff are employees and staff of The City of Avoca as managed and directed by the City Council through the City Administrator who shall carry out the daily administration of the City employees and staff as directed by the City Council and by the various boards and commission except the City Clerk and the Clerk's office staff.
- 2.5 Duty to Defend.** The City shall defend any of its officers, employees and agents, whether elected or appointed, and shall save harmless and indemnify the officers and employees against any tort claim or demand, whether groundless or otherwise, arising out of an alleged act or omission occurring within the scope of their employment or duties. However, the duty to save harmless and indemnify does not apply to awards of punitive damages. The duty to save harmless and indemnify does not apply and the City is entitled to restitution by an officer or employee if, in an action commenced by the City against the officer or employee, it is determined that the conduct of the officer or employee upon which the tort claim or demand was based constituted a willful and wanton act or omission. The duty to defend, save harmless and indemnify shall apply whether or not the City is a party to the action and shall include but not be limited in cases arising under 42 U.S.C. 1983. In the event the officer or employee fails to cooperate in the defense against the claim or demand, the City shall have a right of indemnification against that officer or employee.
- 2.6 Liability Insurance.** The City shall purchase a policy of liability insurance insuring against all liability which might be incurred by the City, or its officers, employees and agents.
- 2.7 Mayor.** The powers and duties of the Mayor shall be as follows:
- A. Duties Delegable.** The Mayor shall have the powers and duties provided by law and ordinance except to the extent that any of such powers or duties shall be specifically delegated to another officer of the City by ordinance or resolution.
  - B. Presiding Officer.** The Mayor shall act as presiding officer at all regular and special Council meetings. The Mayor Pro Tem shall serve in this capacity in the Mayor's absence.
  - C. Mayor's Veto.** The Mayor may sign, veto or take no action on an ordinance, amendment or resolution passed by the Council. If the Mayor exercises the veto power, the Mayor must explain the reason for such veto in a written message to the Council at the time of the veto. Within thirty (30) days after the Mayor's veto, the Council may override the Mayor's veto by a two-thirds majority of the Council members.

- D. **Appointments.** The Mayor shall appoint a council member as Mayor Pro Tem, and shall appoint and dismiss the Chief of Police. However, the appointment and dismissal of the Chief of Police is subject to consent of a majority of the City Council. The Mayor shall make other such appointments as set forth in other chapters of this Code of Ordinances.
- E. **Voting.** The Mayor is not a member of the Council and may not vote as a member of the Council.

**2.8 Mayor Pro Tempore.** The Mayor Pro Tempore shall be vice president of the Council.

- A. **Powers and Duties.** Except for the limitations otherwise provided herein, the Mayor Pro Tempore shall perform the duties of the Mayor in cases of absence or inability of the Mayor to perform mayoral duties. In the exercise of the duties of the Mayor Pro Tempore's office, the Mayor Pro Tempore shall not have power to employ or discharge from employment, officers or employees that the Mayor has the power to appoint, employ or discharge without the approval of the Council.
- B. **Voting.** The Mayor Pro Tempore shall have the right to vote as a member of the Council.
- C. **Compensation.** If the Mayor Pro Tempore performs the duties of the Mayor during the Mayor's absence or disability for a continuous period of fifteen (15) days or more, the Mayor Pro Tempore may be paid for that period such compensation as determined by the Council, based upon performance of the Mayor's duties and upon the compensation of the Mayor.

**2.9 City Council.** The Council shall possess and may exercise all executive, legislative, and judicial powers not inconsistent with statutes applicable to cities and conferred by law upon councils or cities organized under the general laws of this state. The powers and duties of the Council shall include, but are not limited to the following:

- A. **General.** All municipal authority of the City is vested in the City Council except as expressly or impliedly delegated to any of the following by this Code:
  - 1. City Administrator. All authority delegated to the City Administrator is derived from the authority of the City Council and City Council may review, modify, reverse or affirm any decision of the City Administrator by majority vote
  - 2. Library Board of Trustees
  - 3. Park Board
  - 4. Golf Board
  - 5. Water Board of Trustees
  - 6. Sanitary Sewer Board of Trustees
  - 7. Stormwater Board of Trustees
  - 8. Board of Adjustment
  - 9. The City Council may review, affirm, reverse or modify the decision or actions of the above listed boards or commissions on appeal. However, the City Council may not review any actions of the Library Board. Any board member or City Council member may ask for review as set out herein by placing the review on the agenda. Any action by the City Council on review must be by majority vote
  - 10. The City Council may terminate or remove any appointed official, board or commission member or City Administrator as provided in Iowa Code 372.15. This sub-section shall not apply to the Library Board.
- B. **Wards.** By ordinance, the Council may divide the City into wards based upon population,

change the boundaries of wards, eliminate wards or create new wards.

- C. **Fiscal Authority.** The Council shall apportion and appropriate all funds, and audit and allow all bills, accounts, payrolls and claims, and order payment thereof. It shall make all assessments for the cost of street improvements, sidewalks, sewers and other work, improvements or repairs which may be specially assessed.
- D. **Public Improvements.** The Council shall make all orders for the doing of work, or the making or construction of any improvements, bridges or buildings. The Council may authorize the making of contracts, and no contract shall bind or be obligatory upon the City unless either made by resolution, unless the Council has delegated authority for the making of the contract to another appointed officer or board of the City or City Administrator.
- E. **Contracts.** The council may authorize the making of contracts, and no contracts shall bind or be obligatory upon the city unless either made by resolution or the council has delegated authority for the making of the contract to another appointed officer, City Administrator or board of the city.
- F. **Employees Compensation.** The Council shall authorize, by resolution, the number, duties and compensation of all employees not otherwise provided for by law or this Code.
- G. **Rules.** The Council shall determine the rules of its own proceedings by resolution and the clerk shall keep such rules on file for public inspection.

**2.10 City Administrator.** The Administrator shall be responsible for the daily administration of all municipal affairs as directed by the City Council. All departments of the City shall be directed by the Administrator. All departmental activity requiring the attention of the City Council may be brought to the City Council by the City Administrator, Department, Board or Commission head. The City Administrator shall conduct no business with the City or receive any funds directly or indirectly by way of any form of corporation or other professional or business association or partnership. The City Administrator position is a fulltime position and the Administrator may have no outside employment The City Administrator is responsible to the City Council.

- A. **Employment Contract.** The City Council is hereby authorized, in its discretion, to enter into an employment contract with the Administrator upon proper justification but otherwise the City Administrator is regular at will employee.
- B. **Residency.** The Administrator shall become a resident of the City of Avoca within a term deemed reasonable by the City Council, and continued residency in the City is a requirement for continued employment with the City.
- C. **Duties and Responsibilities.** The duties and responsibilities of the Administrator include the following:
  1. **General.** See that all resolutions, ordinances, laws, City Council directives and approved operations policies are either faithfully enforced and executed or referred to the proper official for compliance thereof.
  2. **Attend Council Meetings.** Attend all meetings of the City Council unless otherwise excused by the Mayor and Council.
  3. **Recommendations.** Recommend to the Council any measures as are necessary or expedient for the good government and general welfare of the City.
  4. **Supervision.** Supervise, direct, and evaluate the official conduct of all regular employees pursuant the city personnel policies. The Administrator has no authority over any board, commission or City Clerk staff. The Administrator may make recommendations for hiring and termination of regular city employees to the City Council.
  5. **Personnel and Appointments.** Make recommendations for the compensation of all employees, to be fixed by City Council by resolution.

6. **Annual Budget.** Prepare and submit to the Mayor and Council an annual budget in the manner prescribed by law.
7. **Law Enforcement.** Coordinate the enforcement and execution of all ordinances and laws within the City but has no authority over the Chief of Police who shall report to the Mayor who shall make report to the City Council as needed.
8. **Purchasing.** The Administrator shall supervise all purchasing and approve operating expenditures of up to five thousand dollars (\$5,000) and emergency needs up to ten thousand dollars (\$10,000) and within 24 hours notify the Clerk who shall immediately notify the mayor and council members. The Administrator shall supervise the performance of all contracts for work to be done for the City.
9. **Financial Condition.** Keep the Mayor and City Council full advised of the financial condition of the City.
10. **Combined Offices.** The Council may, by resolution passed by a majority of the entire Council, combine the office of Administrator with any other appointed position and so long as the duties of any of those offices are performed by the Administrator, there shall be no appointment to those offices.
11. **Liaison.** Maintain liaison with citizens, community organizations, businesses, developers, builders, engineers, local school district and the East Pottawattamie County fair board and other entities important to municipal affairs.
12. **Investigations.** Investigate the conduct and affairs of any department, agency, officer or employee of the City and report all findings to the City Council.
13. **Urban Renewal, Economic Development, and Community Development.** Administer the implementation of the City's Urban Renewal Plan, Economic Development Program, and Community Development programs as set out by the Urban Renewal Board.
14. **Boards.** The City Administrator shall carry out the directives and policies of the various boards and commissions.
15. **The City Administrator** shall not engage in any political activity for any or against any elected City official other than to vote. This prohibition includes campaigning, recruiting or any other activity. The City Administrator shall not engage or be involved in the selection of any appointed official including boards and commission however the City Administrator may help recruit members for boards and may give input to the City Council on potential members. The City Administrator shall not serve on any board or commission as a member.
16. **Other Duties.** Perform such other duties as may be directed by the City Council.

**2.11 City Attorney.** The City Attorney shall be appointed by majority vote of the Council.

- A. The City Attorney shall act as attorney for the City in all matters affecting the City's interest and appear on behalf of the City before any court, tribunal, commission or board. The City Attorney may obtain assistance other qualified legal counsel, subject to approval by the Council. The City Attorney is responsible to the City Council but all elected and appointed official may seek the advice of the City Attorney
- B. The City Attorney shall sign the name of the City to all appeal bonds and to all other bonds or papers of any kind that may be essential to the prosecution of any cause in court, and when so signed the City shall be bound upon the same.
- C. The City Attorney shall, upon request, make a written report to the Mayor, Council, Administrator or boards and commissions, giving an opinion on all contracts, documents, resolutions, ordinances or any other matter submitted to the City Attorney.

**2.12 City Clerk.** The City Clerk shall be appointed by majority vote of the Council and receive such compensation as shall be established by resolution. The City Council is hereby authorized, in its discretion, to enter into employment contracts with the City Clerk as may be necessary for his or her employment. The City Clerk is only responsible to the City Council.

**A. Duties and Responsibilities.** The duties and responsibilities of the City Clerk include the following:

- 1. Recording Measures Considered.** Promptly record each measure considered by the City Council, with a statement where applicable indicating whether the Mayor signed, vetoed or took no action on the measure, and whether the measure was repassed after the Mayor's veto.
- 2. Authentication of Measures.** Authenticate all measures with the City Clerk/Finance Officer's signature, certifying the time and manner of publication, when required.
- 3. Records.** Serve as custodian for all public records of the City.
- 4. City Seal.** The City seal shall be in the custody of the City Clerk/Finance Officer and shall be attached by the City Clerk/Finance Officer to all transcripts, orders and certificates which it may be necessary or proper to authenticate.