

COUNCIL ACTION FORM

SUBJECT: **POWERS AND DUTIES OF THE CITY ATTORNEY**

BACKGROUND:

As part of the recruitment for a new City Attorney, the Council passed a motion on July 11, 2017 directing staff to draft modifications to Section 2.48 of the *Ames Municipal Code* to parallel the City Attorney’s job description approved at that same meeting. Section 2.48 describes the powers and duties of the City Attorney.

The proposed ordinance adds a new subsection (7) to Sect. 2.48, which reads as follows:

(7) Follow established City policies and processes. Follow adopted City policies and administrative processes, including, but not limited to, personnel policies; purchasing policies; pay and classification systems; Civil Service practices and policies; and performance management, hiring, and budget processes. Under the direction of the City Manager's Office, prepare and administer the annual budget for the City's Legal Department. Lead legal staff in implementing department and City-wide goals and objectives.”

The language in subsection (7) was taken directly from the job description for the City Attorney, with minor edits to conform to the style of the ordinance.

Additionally, a few changes are being recommended to clean up some existing provisions of Section 2.48 to remove some antiquated or superfluous language, or to clarify intent of language. These include: A) clarifying that “assistants” in the current ordinance means Assistant City Attorneys; B) clarifying that the City Attorney supervises the support staff in the Legal Department; C) removing from subsection (1) a requirement that legal opinions shall be filed with and preserved by the City Clerk; and D) removing the words “board or commissions” from the list of City officials or entities that can direct the City Attorney to draw contracts or take other legal action.

ALTERNATIVES:

1. The City Council can adopt the attached ordinance.
2. The Council can direct staff to modify the proposed ordinance.

CITY MANAGER'S RECOMMENDED ACTION:

The attached ordinance formally updates the City Attorney's duties to parallel those recently approved by Council for inclusion in the job description for this position. It also includes several minor changes to clarify the City Attorney's responsibilities, and removes the authority previously granted to boards and commissions to independently direct the City Attorney to take various actions.

Therefore, it is the recommendation of the City Manager that the City Council accept Alternative No. 1 as stated above.

ORDINANCE NO.

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, BY REPEALING CHAPTER 2 SECTION 2.48 AND ENACTING A NEW CHAPTER 2 SECTION 2.48 THEREOF, FOR THE PURPOSE OF CLARIFYNG POWERS AND DUTIES OF THE CITY ATTORNEY; REPEALING ANY AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT TO THE EXTENT OF SUCH CONFLICTAND ESTABLISHING AN EFFECTIVE DATE.

BE IT ENACTED, by the City Council for the City of Ames, Iowa, that:

Section One. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by repealing Chapter 2 Section 2.48 and enacting a new Chapter 2 Section 2.48 as follows:

“Sec. 2.48. POWERS AND DUTIES.

The City Attorney shall be head of the Legal Department of the City and supervise such Assistant City Attorneys and support staff as may be appointed. The City Attorney, and Assistant City Attorneys when so directed by the City Attorney, shall have the following powers and duties:

(1) Opinions. The City Attorney shall give, when requested by the City Council, administrative agency, City Manager or department head, legal opinion upon all questions of law arising out of any ordinances, suits, claims, or demands for or against the city, and shall give such opinion in writing unless otherwise so requested.

(2) Legal adviser. Act as legal adviser to all City officials, boards and commissions as far as their or its official duties are concerned, when requested to do so by said officials, boards and commissions.

(3) Ordinances. Report to the City Council any defects that may be discovered in any ordinance, and shall draw such ordinances as may be requested by the City Council.

(4) Contracts and litigation. When directed to do so by any City official, draw all contracts between the city and other parties, prosecute and defend all suits or other matters in which the City shall be a party, take appeals in such cases as the interest of the City requires, and prosecute or defend the City's interest in all the courts of the State and of the United States, all subject, however, to the direction of the City Council; provided however, that the City Attorney is authorized and directed hereby to prepare, sign and file proper informations when there is evidence that a person may be guilty of a violation of a City ordinance, and to prosecute any and all such informations to judgment and on appeal.

(5) Sign legal papers. Sign the name of the City to bonds and papers of whatever kind necessary in legal proceedings for the prosecution of any suit in court when directed to do so by the City Council.

(6) Deliver effects of office to successor. Transmit to a successor a docket of all cases pending wherein the City is a part, as well as all books, papers and documents in the possession of the City Attorney belonging to the City.

(Ord. No. 2508, Sec. 2, 5-20-75, Ord. No. 3633, 10-23-01).

(7) Follow established City policies and processes. Follow adopted City policies and administrative processes, including, but not limited to, personnel policies; purchasing policies; pay and classification systems; Civil Service practices and policies; and performance management, hiring, and budget processes. Under the direction of the City Manager's Office, prepare and administer the annual budget for the City's Legal Department. Lead legal staff in implementing department and City-wide goals and objectives.”

Section Two. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent of such conflict, if any.

Section Three. This ordinance shall be in full force and effect from and after its passage and publication as required by law.

Passed this _____ day of _____, _____.

Diane R. Voss, City Clerk

Ann H. Campbell, Mayor