



Roles & Responsibilities Manual

Association of Idaho Cities

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Roles & Responsibilities

Introduction

Just like government at the state and federal levels, municipal government in Idaho rests on the foundational principles of separation of powers and checks and balances. Separation of powers is the division of responsibility between the executive, legislative, and judicial branches. Checks and balances serve to make each branch dependent on the others in important ways, helping to prevent one branch from aggrandizing power at the expense of the others.

The responsibilities of mayors and councilmembers are set forth in state law and the proper functioning of city government relies on all officials understanding their roles, the limits of their authority and how their office interacts with others. Understanding your responsibilities as a city official also protects you and your city from liability that may arise from acting outside the scope of your authority, and provides citizens with confidence that city government is operating effectively.

Form of Government

Article XII, Section 1 of the Idaho Constitution empowers the Idaho Legislature to “...provide by general laws for the incorporation, organization and classification of the cities and towns...which laws may be altered, amended, or repealed by the general laws.”

The mayor-council form of government is established by Idaho law as the default form of city government: “The officials of each city shall consist of a mayor and either four (4) or six (6) councilmen...”¹

¹ Idaho Code 50-203.

Cities desiring to increase or decrease the size of their council may submit the question to the qualified electors of the city.² The process begins with a council resolution or a citizen petition signed by at least 20 percent of the number of qualified electors voting in the last general city election. The proposition must receive simple majority voter approval to pass.

The Council-Manager Form of Government

At local option, cities may adopt the council-manager form of government, with a five or seven member council and a professional city manager serving at the pleasure of the council.³

Currently, only the cities of Lewiston, McCall and Twin Falls operate under the council-manager form of city government.

In council-manager cities, the mayor is selected by the council from among its members at the first meeting in January following a general city election for a two-year term⁴; although cities may, by ordinance, choose to have the mayor selected directly by the voters for a term of two or four years.⁵ In all three cities currently operating under the council-manager form, the mayor is elected by the council from among its members. The mayor's primary role is in chairing council meetings, and the mayor is entitled to vote on all matters before the council, but exercises no tie-breaking or veto power.⁶

The city manager is responsible for overseeing the administration of the city, ensuring that city laws and policies are faithfully executed, appointing department heads, advising the council of

² Cities operating under the mayor-council form of government may increase their council from four to six members, or decrease their council from six to four members. Cities operating under the council-manager form of government may increase their council from five to seven members, or decrease their council from seven to five members. Idaho Code 50-703.

³ Idaho Code Title 50, Chapter 8.

⁴ Idaho Code 50-809(1).

⁵ Idaho Code 50-809(2).

⁶ Idaho Code 50-810.

the city's financial condition, preparing and submitting a tentative budget for the upcoming fiscal year, and other duties as prescribed by the council.⁷

The process to adopt the council-manager form of government begins in one of two ways: (1) a resolution passed by a majority of the full council, or (2) a citizen petition signed by at least 20 percent of the number of qualified electors voting in the last general city election.⁸ The proposition must be approved by a simple majority of the qualified electors of the city voting on the question in order to pass.

After at least six years of operating under the council-manager form of government, the question of whether to discontinue the council-manager form and resume the mayor-council form may be submitted to the qualified electors of the city.⁹ The process works similarly to adoption of the council-manager form, requiring either a resolution approved by a majority of the full council or a citizen petition signed by at least 20 percent of the number of qualified electors voting at the last general city election. The proposition to adopt the mayor-council form must be approved by a simple majority of the qualified electors of the city voting on the question.

Term of Office for Mayors & Councilmembers

The term of office for mayors is four years.¹⁰ In the event that a mayoral vacancy is filled by appointment, the appointee serves until the next general city election in November of an odd-numbered year, at which point the office is up for election to a four-year term.¹¹

⁷ Idaho Code 50-811.

⁸ Idaho Code 50-802.

⁹ Idaho Code 50-812.

¹⁰ Idaho Code 50-601.

¹¹ Idaho Code 50-608.

The normal term of office for councilmembers is four years.¹² Half of the councilmembers are up for election to four-year terms at the general city election in November of each odd-numbered year.¹³ However, state law provides that when a vacant council position is filled by appointment, the appointee serves until the next general city election in November of an odd-numbered year.¹⁴ At that point:

- If the normal four-year term of office expires at the end of the general election year, the position is up for election to a four-year term.
- If the normal four-year term of office has two years remaining at the end of the general election year, the position is up for election for the remaining two years of the term. The position is then up for a four-year term at the following general city election.

It is critical to understand that two-year council terms only occur as the result of filling a vacant council position. At the end of a two-year term, the council position must be up for election to a normal four-year term. Put another way, the same position can never have two consecutive two-year terms. Two-year terms serve to keep the council on cycle with half of its members up for election at the general city election in November of each odd-numbered year.

Qualifications for Mayors & Councilmembers

Any person meeting the following requirements is qualified to serve as mayor¹⁵ or councilmember.¹⁶

- The person must be at least 18 years of age.

¹² Idaho Code 50-702.

¹³ Idaho Code 50-701.

¹⁴ Idaho Code 50-704.

¹⁵ Idaho Code 50-601; 50-402(c) & (d); 50-431.

¹⁶ Idaho Code 50-702; 50-402(c) & (d); 50-431.

- The person must be a U.S citizen.
- The person's primary residence must be within the city.
- The person must be registered to vote.
- The address of the person's voter registration must match the residence address provided on their declaration of candidacy or intent (for those seeking election).
- The person must be a resident of the city for at least 30 days prior to submitting their declaration of candidacy or declaration of intent (for those seeking election).

Mayors and councilmembers must continue to meet these qualifications throughout their term of office.¹⁷

Method of Election

The default method of election for mayors and councilmembers is outlined below.

- Candidates must file a declaration of candidacy specifying the office and term for which they are running and affirming their qualifications to hold the office (see "Qualifications for Mayors & Councilmembers" above). The declaration must be accompanied by a petition with signatures of at least five qualified city electors with an attached certification of signatures from the county clerk, **OR** a non-refundable filing fee of \$40.¹⁸ The declaration and petition/fee must be submitted to the city clerk's office by 5:00 p.m. on the ninth Friday before Election Day.¹⁹

¹⁷ Idaho Code 50-601; 50-702.

¹⁸ Idaho Code 50-430; 50-431.

¹⁹ Idaho Code 50-432.

- Write-in candidates must file a declaration of intent with the city clerk’s office at least 14 days before Election Day specifying the office and term for which they are running and affirming their qualifications to hold the office (see “Qualifications for Mayors & Councilmembers” above).²⁰
- Councilmembers are elected by the “horserace” method. Candidates file for a four-year position or a two-year position (if available). The candidates for four-year and two-year positions are listed separately on the ballot, and the ballot instructions indicate the number of positions up for election under each. The top candidates are elected to fill the available four-year and two-year positions.
- Mayors and councilmembers are elected at-large, meaning all city voters get to vote for all offices up for election.
- The candidates receiving the most votes—even if less than a majority of the votes cast—are elected to fill the available positions.²¹
- Municipal elections are officially nonpartisan: Idaho law provides that the declaration of candidacy cannot include any reference to partisan affiliation.²²

At local option cities may adopt any of the following alternate methods of election by ordinance.

- Cities may elect councilmembers by districts composed of nearly equal population—however, no city has implemented this method of election.²³

²⁰ Idaho Code 50-432; 34-702A.

²¹ Idaho Code 50-467.

²² Idaho Code 50-430 provides that the declaration of candidacy, “...shall [make] no mention relating to party or principal of the nominee.”

²³ Idaho Code 50-707A.

- Cities may establish designated council seats, in which case candidates must pick a specific seat when filing to run for council.²⁴ There are 22 cities with designated council seats.²⁵
- Cities may require runoff elections for mayor and/or council in the event no candidate receives a majority of the votes cast at the general election. The runoff is held within 30 days after the general election between the top two candidates. Cities may choose to have runoff elections for mayor,²⁶ for councilmembers elected by seat or district,²⁷ or mayor and council. There are currently eight cities with mayoral runoffs²⁸ and three cities with runoffs for designated council seats.²⁹

Installation of Mayors & Councilmembers

Officials elected at the general city election in November of an odd-numbered year are installed at the first council meeting in January.³⁰ The process for installation is outlined below.

- The incumbent mayor and councilmembers convene the meeting, approve the minutes from any previous meetings and approve payment of the bills.
- Those elected at the November election are sworn-in by the city clerk,³¹ the mayor,³² a judge³³ or another official authorized by Idaho law to administer oaths.³⁴

²⁴ Idaho Code 50-707.

²⁵ Ammon, Athol, Blackfoot, Boise, Bovill, Caldwell, Coeur d'Alene, Greenleaf, Hailey, Hayden, Idaho Falls, Kellogg, Meridian, Minidoka, Nampa, Pocatello, Post Falls, Rathdrum, Shelley, Star, Twin Falls and Wallace.

²⁶ Idaho Code 50-612.

²⁷ Idaho Code 50-707B.

²⁸ American Falls, Blackfoot, Boise, Eagle, Idaho Falls, Mountain Home, Pocatello, and Spirit Lake.

²⁹ Blackfoot, Hailey, and Idaho Falls.

³⁰ Idaho Code 50-702; 50-601.

³¹ Idaho Code 50-207.

³² Idaho Code 50-607. Note that a mayor does not have authority to administer oaths until after he/she has sworn to the oath of office.

³³ Idaho Code 1-1901.

³⁴ Idaho Code 59-403.

- Those being sworn-in stand, raise their right hand, listen as the oath is read and say “I do” or “I will” at the end of the oath.³⁵ Each official then signs a paper copy of the oath of office, which is also signed by the city clerk and is kept by the city as an official record.
- Each official receives a Certificate of Election signed by the mayor and city clerk.³⁶
- The council proceeds to select one of their members as president of the council by motion approved by a majority of those present and voting.³⁷
- Mayoral or council vacancies resulting from offices up for election which failed to attract candidates may be filled by appointment (see “Mayoral & Council Vacancies” below).

In the event a mayor or councilmember is unable to attend the first meeting in January they may be sworn-in at a subsequent meeting using the same process as outlined above.

³⁵ Idaho Code 59-401.

³⁶ Idaho Code 50-470. Note that the mayor, even if newly elected and installed, signs the certificates of election, including their own.

³⁷ Idaho Code 50-702.

Oath of Office

STATE OF IDAHO,

}SS

County of _____

I, _____ do solemnly swear (or affirm) that I will

(Print Name of Elected or Appointed Official)

support the Constitution of the United States and the State of Idaho, and the

Laws and Ordinances of _____ City, and that I will to the best of

my ability, faithfully perform the duties of the office of _____ in

_____ City, _____ County, Idaho, during my

continuance therein. So help me, God.

(Signature of Elected or Appointed Official)

Subscribed and sworn to before me this ____ day of _____, ____.

City Clerk

Removal of Mayors & Councilmembers

Removal of mayors and councilmembers is restricted to the decision of a court of competent jurisdiction or by the recall process as outlined below.

- Removal or decision by a court of competent jurisdiction:
 - ✓ “[F]or wilful or corrupt misconduct in office...”³⁸
 - ✓ Conviction of bribery, nepotism, using public position for personal gain or corruption.³⁹
 - ✓ Pursuant to an action for usurpation of office brought by the prosecuting attorney.⁴⁰
 - ✓ Conviction of a felony, in which case a person’s rights to vote and hold civil office are suspended until “satisfactory completion of imprisonment, probation and parole as the case may be.” A person’s rights to vote and hold civil office⁴¹ are automatically restored upon completion of sentence.⁴²
- By recall, as provided in Idaho Code Title 34, Chapter 17. Unlike other states, Idaho does not require any showing of official malfeasance as grounds for recall. In other words, petitioners have total discretion to bring forth a recall petition for any reason whatsoever. Removal of a mayor or councilmember through a recall election requires:
 - ✓ Approval by a majority of the qualified electors voting on the question, **AND**

³⁸ Idaho Code Title 19, Chapter 41.

³⁹ Idaho Code 18-1307; 18-1360.

⁴⁰ Idaho Code Title 6, Chapter 6. “An action may be brought in the name of the people of the state against any person who usurps, intrudes into, holds or exercises any office or franchise, real or pretended, within this state, without authority of law.” Idaho Code 6-602.

⁴¹ Idaho Constitution Article VI, Section 3 provides: “No person is permitted to vote, serve as a juror, or hold any civil office who has, at any place, been convicted of a felony, and who has not been restored to the rights of citizenship, or who, at the time of such election, is confined in prison on conviction of a criminal offense.”

⁴² Idaho Code 18-310(2) & (4).

- ✓ At least as many votes to recall as were cast for the officer during their last election.⁴³

When an office is vacated through one of the preceding methods, the vacancy is filled through the normal process of appointment (see “Mayoral & Council Vacancies” below).

Mayoral & Council Vacancies

Idaho Code 59-901 provides that vacancies in civil offices occur as a result of the following:

1. Resignation of the incumbent.
2. Death.
3. Removal from office.
4. The decision of a competent tribunal declaring the office vacant.
5. Ceasing to be a resident of the state, district or county in which the duties of the office are to be exercised, or for which the person may have been elected.
6. A failure to elect at the proper election, there being no incumbent to continue in office until their successor is elected and qualified, nor other provisions relating thereto.
7. A forfeiture of office as provided by any law of the state.
8. Conviction of any infamous crime, or of any public offense involving violation of the oath of office.

⁴³ Idaho Code 34-1712(3). If the officer was appointed to fill a vacancy, then a simple majority of the qualified electors voting on the question is required for the officer to be recalled.

9. Acceptance of a commission to any military office, either in the militia of this state, or in the service of the United States, which requires the incumbent in the civil office to exercise their military duties out of the state for a period of not less than sixty (60) days.

The resignation of a mayor or councilmember needs to be submitted in writing, with a specific effective date and the officer's signature (preferably notarized). The effective date may be immediate (the day the letter is submitted) or at a future time certain, at the officer's discretion.

The resignation letter should then be presented to the council, accepted by motion of the council, and the full text of the letter included in the meeting minutes.⁴⁴ After the council accepts the resignation, the process of filling the vacancy may begin.

Once a letter of resignation is submitted to the city it cannot be rescinded.⁴⁵ The resigning officer may be appointed to fill the vacancy, assuming they continue to meet the required qualifications to serve.

Idaho Code 50-608 provides the process for filling a mayoral vacancy.

...When a vacancy occurs in the office of mayor...the city council shall fill the vacancy from within or without the council as may be deemed in the best interests of the city,

⁴⁴ Idaho Code 59-902.

⁴⁵ In *Fitzpatrick v. Welch* (96 Idaho 280, 527 P.2d 313 (1974)) the Idaho Supreme Court examined the question of whether the Kootenai County Sheriff could rescind his resignation after the same had been submitted and accepted by the Board of County Commissioners, but before the effective date of the resignation.

The Court cited with approval the Illinois case of *People v. Kerner* (19 Ill.2d 506; 167 N.E.2d 555 (1960)) which held, "[Public] policy requires that there be certainty as to who are and who are not public officers. Otherwise, there is doubt and confusion which leads to needless litigation."

In the decision authored by Chief Justice Shepard, the Idaho Supreme Court went on to explain: "If appellant or any other public officer were to be permitted once to indicate his lack of desire to hold an office and tender a resignation to be effective at some date in the future and then withdraw it, then logically he or any other person could do so a second, third, and fourth time *ad infinitum*. Such conduct could be destructive of the orderly conduct of governmental affairs, the ability of an appointing authority to seek out and secure qualified persons to fill the purported vacancy, and, as mentioned before, to assure the public of adequate law enforcement."

which appointee shall serve until the next general city election, at which election a mayor shall be elected for the full four (4) year term.

Idaho Code 50-704 provides the process for filling a council vacancy.

A vacancy on the council shall be filled by appointment made by the mayor with the consent of the council, which appointee shall serve only until the next general city election, at which such vacancy shall be filled for the balance of the original term.

The process of soliciting and evaluating candidates for a council vacancy is at the mayor's discretion. The council has discretion to determine the process of soliciting and evaluating candidates to fill a mayoral vacancy. When there is consensus on a particular individual, then the vacancy may be filled without soliciting résumés or letters of interest from candidates. If a broader group of candidates is desired, then the mayor/council may request résumés or letters of interest and interviews may be conducted with the top candidate(s)—note that if interviews are conducted by a quorum of the council or a committee, these would have to occur at an open meeting since Idaho law expressly provides that executive sessions may not be held for the purpose of considering filling a vacant elective office.⁴⁶

It is important to note that Idaho law provides no deadline for filling a vacant mayoral or council position. The timeline for filling such a vacancy is entirely at the discretion of the appointing authority. There are, however, practical considerations that influence the timeline for filling a vacancy, with the most important being “How long can the city continue operating with the vacancy?” In the case of a mayoral vacancy, how long can city operations function without a mayor to oversee the day-to-day administration? Council vacancies can cause headaches because of the need for a quorum, a majority of the full council, to be present at meetings. If a city has a four-member council, a single vacancy means that all three remaining

⁴⁶ Idaho Code 67-2345(1)(a).

councilmembers must be present in person or by speakerphone to make a quorum so business may be transacted.

A mayoral appointment to fill a council vacancy should be presented at a council meeting and reflected in the minutes. At any time after the presentation of the mayor's appointment, the council may confirm or reject the appointment by motion, approved by a majority of the councilmembers present and voting.

When the council fills a mayoral vacancy it is done by motion: the first person to be approved by a majority of the councilmembers present and voting is appointed.

If resignations result in the city council being unable to constitute a quorum to convene a meeting (a majority of the full council), then the Governor appoints enough councilmembers to restore the quorum⁴⁷ and any remaining vacancies are filled through the normal process.

After a person has been appointed to fill a mayoral or council vacancy, he/she is sworn-in, signs the oath of office and receives a certificate of appointment signed by the mayor and city clerk.

Compensation of Mayor & Council

Idaho Code 50-203 provides that compensation of the mayor and council "...shall be fixed by ordinance [passed and] published at least seventy-five (75) days before any general city election, which ordinance shall be effective for all said officials commencing on January 1 following said election and continuing until changed pursuant to this section."

There are several important things to consider relative to the compensation of the mayor and council.

⁴⁷ Idaho Code 59-912.

- The deadline for the council to pass and then publish an ordinance changing mayoral and council salaries comes a few days ahead of the opening of the filing period for candidates to get their names on the ballot to run for mayor or council.
- Any change in compensation (increase or decrease) requires passage of an ordinance in compliance with Idaho Code 50-203.
- Compensation must be “fixed” by ordinance, meaning a set amount per month or year—AIC advises against paying by meeting attendance, by the hour, or any other method which could fluctuate.
- It is unlawful for a mayor or councilmember to receive compensation over and above their salary set by ordinance for goods or services provided to the city.⁴⁸ A city cannot pay a councilmember extra to help with snowplowing. Likewise, a city cannot purchase parts from the mayor’s parts store. Mayors and councilmembers may voluntarily provide goods or services to the city without compensation, but cannot be paid for them over and above their salary set by ordinance.

Understanding Separation of Powers and Checks and Balances

All city officials need to understand how government was intended to function in order to properly play their respective roles in its operation. Like government at the state and federal levels, city government in Idaho is shaped by the principles of separation of powers and checks and balances.

Separation of powers can be described as the division of governmental power and responsibility among the legislative, executive, and judicial branches.

⁴⁸ Idaho Code 59-201; 18-1359(1)(d). See Idaho Code 59-201A and 18-1361 for exceptions.

Legislative Branch: Includes Congress, the Idaho Legislature and city councils.

Responsible for passing laws and policies, and appropriating money to fund government operations.

Executive Branch: Headed by the President of the United States, Governor of Idaho and city mayors. Responsible for implementing and administering laws and policies adopted by the legislative branch, as well as managing government operations.

Judicial Branch: Includes the United States Supreme Court, Court of Appeals and District Courts; and Idaho Supreme Court, Court of Appeals, and District Courts. Responsible for adjudicating cases and controversies and applying the law in particular circumstances.

By dividing power and responsibility among the three branches, we benefit from the specialization and natural advantages that each branch brings to its work. The executive branch, headed by a single individual, excels at quick, decisive action and clearly articulating the popular will. The legislative branch, composed of numerous members, excels at representing diverse communities, balancing the demands of a multitude of interests and crafting political compromises. The judicial branch excels at ensuring procedural fairness and discerning and protecting the rights of individuals. "...[B]roadly speaking the evolution in modern times of three major procedures of government reflected the importance attached to three dominant values in the Western World—efficiency, democracy, and justice."⁴⁹

Each branch exists independently and is imbued with a will of its own—however, the branches are not hermetically sealed from one another, operating in isolation. The principle of checks and balances makes each branch dependent upon the others in important ways. This serves to prevent one branch from aggrandizing power at the expense of the other branches, to the detriment of public liberty. As James Madison explains in Federalist 51:

⁴⁹ Vile, M.J.C. *Constitutionalism and the Separation of Powers*. Indianapolis: Liberty Fund, 1998, p. 381.

...[T]he great security against a gradual concentration of the several powers in the same department, consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others. The provision for defense must in this, as in all other cases, be made commensurate to the danger of attack. Ambition must be made to counteract ambition. The interest of the man must be connected with the constitutional rights of the place. It may be a reflection on human nature, that such devices should be necessary to control the abuses of government. But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions.

Many of the questions fielded by AIC ask whether a particular responsibility is vested with the mayor or the council. There is usually a straightforward answer, but a simplistic view ignores the many ways in which the branches are dependent on each other. For example, the mayor is responsible for supervising city staff, but that role is impacted by the policies and budgets passed by the council. The council's power to pass an ordinance doesn't mean much if the mayor vetoes the ordinance or isn't interested in overseeing its implementation and enforcement.

Our system of checks and balances compels a close working relationship between the mayor and the council—if they are working at cross-purposes the result will be political infighting and governmental paralysis. The most effectively governed cities are those in which the mayor and council work as a team to advance the best interests of their community, with all players understanding their roles.

Executive Authority Vested in Mayor

Idaho Code 50-602 provides:

The mayor...shall be the chief administrative official of the city, preside over the meetings of the city council and determine the order of business subject to such rules as the council may prescribe, have a vote only when the council is equally divided, have the superintending control of all the officers and affairs of the city, preserve order, and take care that the ordinances of the city and provisions of [state law] are complied with and enforced.

The powers and responsibilities of the mayor are listed below—please note this section describes mayoral powers under the mayor-council form of government.

Mayoral Powers & Responsibilities

Executive

Supervising city employees and appointed officers, hiring and firing of employees (subject to city personnel policy).⁵⁰

May demand documents or reports from appointed officers.⁵¹

Enforcing laws and policies passed by the council.⁵²

Enforcement of health and quarantine ordinances.⁵³

Declaration of local disaster emergencies for up to seven days in duration.⁵⁴

Ordering emergency holdbacks in spending by city departments.

Legislative

May veto ordinances passed by the council, subject to override by a majority of the full council.⁵⁵

May call special meetings of the city council.⁵⁶

Presiding over council meetings and determining the order of business “...subject to such rules as the council may prescribe...”⁵⁷

⁵⁰ Idaho Code 50-602.

⁵¹ Idaho Code 50-605.

⁵² Idaho Code 50-602.

⁵³ Idaho Code 50-606.

⁵⁴ Idaho Code 46-1011.

⁵⁵ Idaho Code 50-611.

⁵⁶ Idaho Code 50-604.

⁵⁷ Idaho Code 50-602.

Breaking tie votes of the council.⁵⁸

Formulating policy recommendations for the council.⁵⁹

Appointment & Removal

Nominating persons to serve in appointed offices, subject to confirmation by a majority of the full council.⁶⁰

⁵⁸ Idaho Code 50-602. Idaho law provides that certain issues require a majority vote of the full council—in these instances the mayor’s tiebreaking vote is not effective. These issues are listed below.

- Adoption of a franchise ordinance. Idaho Code 50-329.
- Confirmation of the mayor’s nomination for an appointed office. Idaho Code 50-205.
- Removal of an appointive officer, such as the city clerk, treasurer or attorney. Idaho Code 50-206.
- Adoption of an ordinance providing for leasing of city property for mining purposes. Idaho Code 50-234.
- Overriding the mayor’s veto of an ordinance. Idaho Code 50-611.
- Calling special meetings of the city council. Idaho Code 50-706.
- Calling a special election on adoption of the council-manager form of government. Idaho Code 50-802.
- Dispensing with the requirement for ordinances to be read on three different days with one reading in full. Idaho Code 50-902.
- Declaring an emergency caused by casualty, accident or act of nature and authorizing short-term borrowing to pay for the costs of repairs or improvements. Idaho Code 50-1006.
- Authorizing the use of portions of public parks, playgrounds or other grounds for athletic contests, golf links, agricultural exhibits, ball parks, fairs, rodeos, swimming pools and other amusements, and for military units of the state of Idaho or the United States, and making and entering contracts with the appropriate organizations and associations. Idaho Code 50-1409.
- Initiation of a local improvement district by council resolution. Idaho Code 50-1706.
- Creation of a local improvement district when the owners of more than two-thirds of the property to be assessed have protested. Idaho Code 50-1709.
- Sale of property deeded to the city as a result of unpaid local improvement district assessments. Idaho Code 50-1751.
- Passage of an ordinance providing for disposition of excess revenues in a Local Improvement Guarantee Fund. This action requires three-fourths vote of the full council. Idaho Code 50-1769.
- Council override of the term limits provision limiting planning and zoning commissioners to no more than two full, consecutive terms. Idaho Code 67-6504(a).

⁵⁹ Idaho Code 50-603.

⁶⁰ Idaho Code 50-204; 50-205.

Removal of appointed officers, subject to confirmation by a majority of the full council.⁶¹

Filling vacant council positions, subject to council confirmation.⁶²

Appointment and removal of members to city boards, commissions and committees. For permanent boards, commissions or committees, appointment and removal must be confirmed by the council.⁶³

Miscellaneous

Sign ordinances and resolutions, checks, contracts, bonds and other official documents on behalf of the city.⁶⁴

Administering oaths (such as the oath of office).⁶⁵

Performing marriage ceremonies within the State of Idaho.⁶⁶

“...[S]uch powers, prerogatives and authority as is conferred by the laws of the state of Idaho or as may be conferred upon him by the city council...”⁶⁷

Ceremonial head of the city for ribbon cuttings, groundbreaking and other events.

Listening and responding to constituent issues and concerns.

⁶¹ Idaho Code 50-206.

⁶² Idaho Code 50-704.

⁶³ Idaho Code 50-210.

⁶⁴ Idaho Code 50-607; 50-1018; 57-205.

⁶⁵ Idaho Code 50-607.

⁶⁶ Idaho Code 32-303.

⁶⁷ Idaho Code 50-607.

Legislative Authority Vested in Council

Idaho Code 50-701 provides:

The legislative authority of each city in the state of Idaho...shall be vested in a council consisting of either four (4) or six (6) members, one half (1/2) of whom shall be elected at each general city election. Councils shall have such powers and duties as are now or may hereafter be provided under the general laws of the state of Idaho.

The powers and responsibilities of the city council are outlined below.

Council Powers & Responsibilities

Legislative

Adopt local laws (ordinances) to protect the public health, safety, morals and welfare. Ordinances may provide for infraction penalties with a civil fine of up to \$100 and misdemeanor criminal penalties with up to 6 months imprisonment and a fine of up to \$1,000.⁶⁸

Annex territory into the city by ordinance.⁶⁹

Adopt a comprehensive plan by resolution, which serves as the city's plan for future growth and development.⁷⁰

Adopt a zoning ordinance to regulate land uses within the city, including permitted, conditionally permitted and prohibited land uses within each zone. The zoning ordinance also outlines application procedures, fees and standards of approval for rezones, conditional use permits, and variances.⁷¹

⁶⁸ Idaho Code 50-302.

⁶⁹ Idaho Code 50-222.

⁷⁰ Idaho Code 67-6503; 67-6508; 67-6509.

⁷¹ Idaho Code 67-6511; 67-6512; 67-6516; 67-6518; 67-6519.

Adopt a subdivision ordinance setting forth the process for subdivision applications, fees and approval; standards for streets, curb and gutter, water, sewer and other infrastructure; and off-site improvements and other requirements.⁷²

Negotiate with the county commissioners an area of city impact for future urbanization and annexation into the city and the land use regulations which will apply within the area.⁷³

Creation of an urban renewal agency to plan and undertake economic development projects within specific areas of the city,⁷⁴ approval of urban renewal plans⁷⁵ and authorization of revenue allocation financing for urban renewal projects by ordinance.⁷⁶

A majority of the full council may override mayoral veto of an ordinance.⁷⁷

Establish the place and time of regular council meetings by ordinance.⁷⁸

A majority of the full council may call special council meetings.⁷⁹

Authorizing and holding executive sessions, which are meetings of the council closed to the public, to consider any of the following: hiring a public officer, employee, staff member or individual agent; evaluation, dismissal, discipline or hearing complaints or charges against a public officer, employee, staff member or individual agent; deliberations concerning labor negotiations; acquiring an interest in real property not owned by a public agency; considering records exempt from public disclosure; preliminary negotiations involving matters of trade or commerce; communicating with legal counsel concerning pending litigation or controversies imminently likely to be litigated; communicating with the city's risk manager or insurance provider to discuss the adjustment of a pending claim or prevention of a claim imminently likely to be filed; and labor negotiations if either side requests closed meetings.⁸⁰

⁷² Idaho Code 67-6513; 67-6518; 67-6519.

⁷³ Idaho Code 67-6526.

⁷⁴ Idaho Code 50-2006; 50-2007.

⁷⁵ Idaho Code 50-2008.

⁷⁶ Idaho Code 50-2906.

⁷⁷ Idaho Code 50-611.

⁷⁸ Idaho Code 50-705.

⁷⁹ Idaho Code 50-706.

⁸⁰ Idaho Code 67-2345.

Determine which services should be provided by the city,⁸¹ the fees for such services, and whether a service is more appropriately provided by the city with its own employees or by contract with a private entity.

Adopt ordinances and regulations to protect public health and prevent contagious diseases, and adoption of quarantine laws.⁸²

Adopt franchise ordinances granting use of public rights-of-way for power, natural gas, water and cable providers and setting franchise fees at a percentage of the utility's gross revenues.⁸³

Adopt personnel, financial, investment, purchasing, and other policies governing city operations by resolution.

Licensing and regulation of businesses and occupations within the city and setting license fees.⁸⁴

May adopt building, residential, energy conservation, mechanical and fuel gas codes.⁸⁵

Regulate, establish license fees up to the maximum allowed by state law and approve licenses for retail sale of liquor by the drink,⁸⁶ beer⁸⁷ and wine.⁸⁸

Vacating streets and public rights-of-way.⁸⁹

⁸¹ Idaho Code Title 50, Chapter 3.

⁸² Idaho Code 50-304.

⁸³ Idaho Code 50-329; 50-329A.

⁸⁴ Idaho Code 50-307.

⁸⁵ Idaho Code 39-4109; 39-4116; 54-5001.

⁸⁶ Idaho Code 23-904; 23-916; 23-927.

⁸⁷ Idaho Code 23-1012; 23-1016.

⁸⁸ Idaho Code 23-1315; 23-1318.

⁸⁹ Idaho Code 50-1306A.

Fiscal

Prepare a budget outlining the city's projected revenues and expenditures for the upcoming fiscal year.⁹⁰

Approve an appropriations ordinance establishing spending authority for specific funds or departments for the upcoming fiscal year.⁹¹

Approve the city's property tax levy for the upcoming fiscal year.⁹²

Receive a monthly report on city finances from the city treasurer.⁹³

Examine, at least quarterly, the accounts of officers responsible for managing the monies, property or business of the city.⁹⁴

Provide for audits of the city's financial statements in accordance with Idaho Code 67-450B.⁹⁵

Establish, by ordinance, the place(s) of deposit for city funds.⁹⁶

Approve, by resolution, investment of city funds.⁹⁷

Quasi-Judicial

Decisions on rezones, conditional use permits, variances, and subdivision preliminary plats.⁹⁸

Denial of licenses for retail sale of beer,⁹⁹ wine and liquor by the drink.

⁹⁰ Idaho Code 50-1002.

⁹¹ Idaho Code 50-1003.

⁹² Idaho Code 50-1007.

⁹³ Idaho Code 50-208.

⁹⁴ Idaho Code 50-708.

⁹⁵ Idaho Code 50-1010.

⁹⁶ Idaho Code 50-1013.

⁹⁷ Idaho Code 50-1013.

⁹⁸ *Cooper v. Board of County Commissioners of Ada County*, 101 Idaho 407, 614 P.2d 947 (1980); *Gay v. County Commissioners of Bonneville County*, 103 Idaho 626, 651 P.2d 560 (1982); *Chambers v. Kootenai County Bd. of Comm'rs*, 125 Idaho 115, 867 P.2d 989 (1994); *Idaho Historic Preservation Council v. City Council of Boise*, 134 Idaho 651, 8 P.3d 646 (2000).

⁹⁹ Idaho Code 23-1016.

Appointment & Removal

Confirmation of mayoral appointments to, and removal from, permanent city boards, commissions and committees.¹⁰⁰

Confirmation of the mayor's nomination or removal of appointed officers by a majority of the full council.¹⁰¹

Removal of appointed officers by the council, without the mayor's approval, by unanimous vote of the council.¹⁰²

Fill a mayoral vacancy from within or without the council as deemed in the best interests of the city.¹⁰³

May establish appointed offices in addition to the city clerk, treasurer and attorney.¹⁰⁴

Miscellaneous

Select a councilmember to serve as president of the council (see "Role of the Council President" below for more information).¹⁰⁵

May provide, by ordinance, for the election of councilmembers by seat¹⁰⁶ or district.¹⁰⁷ May establish runoff elections for mayor and/or designated council seats.¹⁰⁸

May, by ordinance, establish permanent city boards, commissions and committees and define their membership, responsibilities, duties and authority.¹⁰⁹

¹⁰⁰ Idaho Code 50-210.

¹⁰¹ Idaho Code 50-204; 50-205; 50-206.

¹⁰² Idaho Code 50-206.

¹⁰³ Idaho Code 50-608.

¹⁰⁴ Idaho Code 50-204.

¹⁰⁵ Idaho Code 50-702.

¹⁰⁶ Idaho Code 50-707.

¹⁰⁷ Idaho Code 50-707A.

¹⁰⁸ Idaho Code 50-612; 50-707B.

¹⁰⁹ Idaho Code 50-210.

Set compensation for mayor and councilmembers by ordinance.¹¹⁰

Designate by ordinance an official city newspaper for publishing legal notices.¹¹¹

Request by resolution a “census or enumeration” of the inhabitants of the city.¹¹²

Sustaining a local disaster emergency declaration beyond the initial seven-day period following the mayor’s declaration.¹¹³

Approving disposal of surplus real property and leases of city owned real property.¹¹⁴

Approving mining leases of city property by ordinance.¹¹⁵

Adopt by resolution a record retention schedule listing the minimum retention period for the various types of city records.¹¹⁶

Approve by resolution the transfer of permanent records to the State Archives for permanent storage.¹¹⁷

Approve a copy fee schedule for public records.¹¹⁸

Role of the Council President

There are three brief references to the council president in Idaho law.

- Idaho Code 50-702 provides that election of the council president is one of the tasks performed at the first meeting in January following a general city election after the newly elected and re-elected officials are sworn-in and seated.

¹¹⁰ Idaho Code 50-203.

¹¹¹ Idaho Code 50-213.

¹¹² Idaho Code 50-214.

¹¹³ Idaho Code 46-1011.

¹¹⁴ Idaho Code Title 50, Chapter 14.

¹¹⁵ Idaho Code 50-234.

¹¹⁶ Idaho Code 50-907.

¹¹⁷ Idaho Code 50-907.

¹¹⁸ Idaho Code 9-338(8).

- Idaho Code 50-608 provides: “In case of a temporary vacancy in the office of mayor due to absence or disability, the president of the council shall exercise the office of mayor during such disability or temporary absence, and until the mayor shall return.”
- Idaho Code 50-901 provides: “...in cases of riot, infections or contagious disease, or other impending danger requiring immediate enforcement, such ordinances shall take effect upon the proclamation of the mayor or president of the council, posted in at least five (5) public places of the city...”

At the first council meeting in January of every even-numbered year, after the officials elected at the November general election are sworn-in and seated, the council proceeds to select one of its members as president of the council. This is done by motion approved by a majority of those present and voting. Although state law provides that selection of the council president occurs every two years, cities could provide by resolution for annual selection. The view of AIC’s legal counsel is that the council may replace the president by motion approved by a majority of the councilmembers present and voting.

The council president’s most significant role is in chairing council meetings, signing documents and supervising city employees in the mayor’s absence. While the statute uses the words “exercise the office of mayor,” most city attorneys take a much more circumscribed view of the council president’s authority in such circumstances. The council president should not make hiring or firing decisions, appointments to fill vacant council positions, or veto ordinances during the mayor’s temporary absence. Other responsibilities of the council president may be defined by local policy.

Structure & Jurisdiction of the Idaho Courts

The Idaho judicial system consists of the Supreme Court, Court of Appeals, District Courts and Magistrate Division of the District Courts.¹¹⁹

Idaho's trial courts—the District Court and Magistrate Division—are organized into seven judicial districts, with each district covering four to 10 counties.¹²⁰ The administration of each district is supervised by an Administrative Judge selected by the district judges of the district.¹²¹ Each county has its own District Court, which includes a Magistrate Division.¹²² There are 42 district judges throughout the state who hear felony criminal cases and civil actions involving more than \$10,000, as well as appeals of magistrate decisions. District judges are elected on a non-partisan basis at the May election in even-numbered years for a term of four years by the electors of the district.¹²³ To serve as a district judge a person must be admitted to practice law, at least 30 years of age, a resident of the state for at least two years preceding his/her election, and a qualified elector of the judicial district.¹²⁴

There are 87 magistrates throughout the state whose jurisdiction includes probate matters, divorce proceedings, juvenile proceedings, criminal misdemeanors, infractions, civil cases involving less than \$10,000 and small claims cases.¹²⁵ Every four years magistrates are elected by the voters of the judicial district in retention elections held at the November election in even-numbered years.¹²⁶ Each judicial district has a Magistrate Commission comprised of county commissioners, mayors, citizens, lawyers, a sitting magistrate (non-voting) and chaired by the

¹¹⁹ Idaho Constitution Article V, Section 2.

¹²⁰ Idaho Code Title 1, Chapter 8.

¹²¹ Idaho Code 1-703; 1-907.

¹²² Idaho Code 1-701; 1-2201.

¹²³ Idaho Constitution Article VI, Section 7; Idaho Code 1-702.

¹²⁴ Idaho Constitution Article V, Section 23.

¹²⁵ Idaho Code 1-2208.

¹²⁶ Idaho Code 1-2207.

Administrative District Judge.¹²⁷ The commission makes appointments to fill vacancies and evaluates the performance of new magistrates.¹²⁸ The qualifications to serve as a magistrate include: being a qualified elector of the state, residing in the county in which the magistrate serves, being at least 30 years of age, and admitted to practice law for at least five years.¹²⁹

Idaho's appellate courts are the Court of Appeals and the Supreme Court. The Court of Appeals consists of a chief judge and three judges, sitting in three-judge panels to hear cases.¹³⁰ Judges are elected statewide on a non-partisan basis for a term of six years at the May election in even-numbered years.¹³¹ To be qualified to serve as a judge on the Idaho Court of Appeals a person must be: a qualified elector, at least 30 years of age, a resident of Idaho for at least two years preceding his/her election, and admitted to the practice of law for at least 10 years.¹³² Court vacancies are filled by appointment by the Governor from a list of two to four candidates selected by the Idaho Judicial Council.

The Court of Appeals' jurisdiction includes civil and criminal cases assigned to it by the Idaho Supreme Court.¹³³ Cases invoking the Supreme Court's original jurisdiction, capital murder convictions, and appeals from the Public Utilities Commission and Industrial Commission must be heard by the Supreme Court.

The Idaho Supreme Court consists of the Chief Justice and four Associate Justices elected statewide on a non-partisan basis for a term of six years at the May election in even-numbered years.¹³⁴ To be qualified to serve as a justice on the Idaho Supreme Court a person must be: a qualified elector, at least 30 years of age, a resident of Idaho for at least two years preceding

¹²⁷ Idaho Code 1-2203.

¹²⁸ Idaho Code 1-2204; 1-2205.

¹²⁹ Idaho Code 1-2206.

¹³⁰ Idaho Code 1-2404.

¹³¹ Idaho Code 1-2404.

¹³² Idaho Code 1-2404.

¹³³ Idaho Code 1-2406.

¹³⁴ Idaho Constitution Article V, Section 6; Article VI, Section 7; Idaho Code 1-201.

his/her election, and admitted to the practice of law for at least 10 years.¹³⁵ Court vacancies are filled by appointment by the Governor from a list of two to four candidates selected by the Idaho Judicial Council.¹³⁶

The Chief Justice is selected by a majority of the justices to serve a four-year term, with responsibility of presiding over Court activities.¹³⁷ The Supreme Court's jurisdiction includes appeals from District Court decisions, as well as orders of the Public Utilities Commission and Industrial Commission.¹³⁸ The Court may also review decisions of the Court of Appeals.¹³⁹ The Idaho Supreme Court is one of the few "circuit riding" supreme courts in the country, holding terms of court in Boise, Coeur d'Alene, Moscow, Lewiston, Pocatello, Rexburg, Idaho Falls, Caldwell and Twin Falls. The Idaho Supreme Court has the final say in interpreting Idaho law and constitutional provisions, setting precedent which provides direction for the lower courts to follow.

Judicial Authority Vested in Idaho Courts

Article V, Section 2 of the Idaho Constitution provides:

The judicial power of the state shall be vested in...a Supreme Court, district courts, and such other courts inferior to the Supreme Court as established by the legislature. The courts shall constitute a unified and integrated judicial system for administration and supervision by the Supreme Court. The jurisdiction of such inferior courts shall be as prescribed by the legislature...

¹³⁵ Idaho Code 34-615.

¹³⁶ Idaho Code 1-2102.

¹³⁷ Idaho Constitution Article V, Section 6.

¹³⁸ Idaho Constitution Article V, Section 9.

¹³⁹ Idaho Code 1-2409;

Powers & Responsibilities of the Idaho Courts

Review of city laws, policies and activities for conformity with state and federal law and constitutional provisions.

Adjudication of cases involving violation of city ordinances and sentencing upon conviction.

Adjudication of tort claims—civil actions for wrongdoing by a local government, elected official, employee or volunteer—and determination of compensable damages.¹⁴⁰

Appeals concerning rezones, conditional use permits, variances, subdivision preliminary plats and other site-specific land use matters.¹⁴¹

Enforcement of Idaho Open Meetings Law¹⁴² and Public Records Law.¹⁴³

Judicial confirmation of the validity of indebtedness or multi-year obligations.¹⁴⁴

Determination of “just compensation” for private property owners in eminent domain cases.¹⁴⁵

Issuing declaratory judgments, which are used to establish the rights of particular parties and express the opinion of the court on questions of law.¹⁴⁶

Issuing writs of *mandamus*, which are used to compel the performance of a ministerial duty by a city official that the law recognizes as an absolute duty.¹⁴⁷

¹⁴⁰ Idaho Code Title 6, Chapter 9.

¹⁴¹ Idaho Code 67-6521.

¹⁴² Idaho Code 67-2347.

¹⁴³ Idaho Code 9-343; 9-344; 9-345.

¹⁴⁴ Idaho Code Title 7, Chapter 13.

¹⁴⁵ Idaho Code Title 7, Chapter 7.

¹⁴⁶ Idaho Code Title 10, Chapter 12.

¹⁴⁷ Idaho Code Title 7, Chapter 3.

The Role of City Boards, Commissions & Committees

Committees play an important role in helping the mayor and council make informed policy decisions. At the city level, most committees can be categorized as standing or special.

Standing Committees: Permanent boards, commissions or committees which meet regularly. Standing committees focus on a particular segment of city government, such as Administration, Finance, Public Works, Planning and Zoning, Library, Parks and Recreation, etc. Committee members must be appointed by the mayor and confirmed by the council, and may be removed in the same manner.¹⁴⁸ The number and qualifications of members, as well as the authority and responsibility of each committee must be defined by ordinance.¹⁴⁹ Every standing committee adopts its own bylaws outlining the date, time and place of the committee's regular meetings, selection of the chair and vice chair, rules of meeting procedure and other operational rules.

Special Committees: Temporary committees or task forces formed to examine and make recommendations concerning specific problems or issues. Special committees may be formed by the mayor, by the council, or by the mayor and council acting in concert. Typically, these groups are charged with reporting the outcome of their deliberations by a specific deadline.

Committees serve several useful purposes, including:

- Gathering information and diverse perspectives from citizens, business owners, interest groups, etc.

¹⁴⁸ Idaho Code 50-210.

¹⁴⁹ Idaho Code 50-210.

- Bringing together people with the most desirable combination of education and expertise to work on issues.
- Particularly for councilmembers, committees offer the ability to develop knowledge and expertise on a specific aspect of city operations.
- Constituent concerns can be placated by forming a special committee to study and make recommendations concerning an issue.

Important considerations in ensuring effectiveness of city committees are outlined below.

- For special committees, it is particularly important to clearly define the committee's jurisdiction and responsibilities, and provide committee members with a realistic view of their role early in the process. Committee members often have a sense of ownership in the group's recommendations, but the mayor and council are under no obligation to implement the committee's recommendations.
- Councilmembers should be cautioned to avoid falling into the habit of deferring their judgment to other councilmembers serving on a particular standing committee. Every councilmember's views should be heard and considered, even those who don't serve on the germane committee.
- City boards, commissions, committees, and task forces are subject to the Idaho Open Meeting Law requirements for meetings to be open to the public, preceded by posted notice and agenda, with minutes available within a reasonable time after the meeting.

City Appointed Officers

Idaho Code 50-204, 50-205 and 50-206 establish the city clerk, treasurer and attorney as the three appointed officers required for each city and the process of their appointment, confirmation and removal.

50-204. APPOINTMENT OF OFFICERS—OATH—BOND. The mayor, except as otherwise provided in sections [50-801](#) through [50-812](#), with the consent of the council shall appoint a city clerk, a city treasurer, a city attorney and such other officers as may be deemed necessary for the efficient operation of the city. The city clerk, city treasurer, and such other officers as are designated by the council shall, before entering upon the duties thereof, execute a bond to the city in such penal sum as the city council may by ordinance determine, conditioned on the faithful performance of his duties. All official bonds shall be approved by the city council and when so approved shall be filed with the city clerk, except the bond of the city clerk, which shall be filed with the mayor.

50-205. REFUSAL TO CONFIRM APPOINTMENTS—VACANCIES. If the city council shall refuse to confirm any nomination, the mayor shall then within ten (10) days thereafter, nominate another person to fill the office and he may continue to nominate until his nominee is confirmed. If the mayor fails to make another nomination for the same office within ten (10) days after the rejection of a nominee, the city council shall appoint a suitable person to fill the office during the term. The affirmative vote of one half (1/2) plus one (1) of the members of the full council shall be required to confirm any nomination made by the mayor. Whenever a vacancy shall occur in an appointive office, the vacancy for the unexpired term shall be filled by appointment in the same manner as the original appointment.

50-206. REMOVAL OF APPOINTIVE OFFICERS. Any appointive officer, unless appointed under sections [50-801](#) through [50-812](#), may be removed by the mayor for any cause by him deemed sufficient; but such removal shall be by and with the affirmative vote of one half (1/2) plus one (1) of the members of the full council; provided, that the city council, by the unanimous vote of all its members, may upon their own initiative remove any appointive officer.

The appointed officers are the indispensable professionals charged with fulfilling various administrative, fiscal and legal responsibilities provided by Idaho law. Each city is required to appoint a clerk, treasurer and attorney, but cities may designate additional appointed officers (these commonly include: City Administrator, Fire Chief, Parks & Recreation Director, Police Chief, Public Works Director, etc.).

The process of selecting an appointed officer begins with the mayor's appointment, which should be submitted at a council meeting and reflected in the minutes. At any point after the appointment is submitted for council consideration the council may decide to confirm or reject the appointee by motion. The mayor's appointee must be approved by majority vote of the full council—the mayor cannot break a tie vote of the council on confirmation of an appointed officer. If the council votes to confirm the appointee, then the person must swear to and sign the oath of office in the same manner as the elected officials. If the council votes to reject a mayoral appointment, then the mayor has 10 days to submit another appointee for council consideration; if the mayor fails to act within 10 days the appointment falls to the council.

Removal of an appointed officer may be initiated by the mayor with approval of a majority of the full council, or the council (without the mayor's consent) may remove an appointed officer by unanimous vote of the full council.

It is important to note that the statutory provisions relating to the appointment, confirmation and removal of appointed officers supersede provisions of the city's personnel policy and that appointed officers serve at-will subject to removal as provided by Idaho Code 50-206 without prior notice or hearing.¹⁵⁰

Responsibilities of the City Clerk

The city clerk has a variety of responsibilities, some set by statute and others by local policy or practice. The scope of duties for city clerks varies widely from city to city, but the most significant elements are described below.

Responsibilities of the City Clerk

Supervision of elections, candidate filing, and campaign financial disclosure reporting (only for cities over 5,000 population).¹⁵¹

Custodian of city ordinances, resolutions, minutes and other records.¹⁵²

Fulfilling requests for examination or copying of public records as provided by law.¹⁵³

Issuing licenses for businesses and occupations as provided by local ordinance.¹⁵⁴

¹⁵⁰ In *Boudreau v. City of Wendell* (2009) the Idaho Supreme Court held that the city clerk is subject to removal from office without prior notice or hearing, even though such requirements may be imposed by a city's personnel policy. "The statutory scheme for appointing and removing an appointive officer is clear and unambiguous that appointive officers are at-will and subject to removal without cause." "...[I]n Idaho local governments cannot override statutes enacted by the legislature. Thus, once the legislature determined that a municipal appointive officer is at-will and provided for the removal of such an officer without notice or a hearing, the municipality could not alter that status by adopting a Personnel Manual." See also *Bunt v. City of Garden City*, 118 Idaho 427, 797 P.2d 135 (1990).

¹⁵¹ Idaho Code Title 50, Chapter 4; Title 67, Chapter 66. PLEASE NOTE: Beginning January 1, 2011, responsibility for overseeing city elections will be transferred to county clerks as a result of the implementation of [House Bill 372](#) passed by the 2009 Idaho Legislature. City clerks will remain responsible for handling candidate filing, and campaign finance disclosure reporting (only for cities over 5,000 population).

¹⁵² Idaho Code 50-207; 50-908.

¹⁵³ Idaho Code 9-337(3); 9-338.

¹⁵⁴ Idaho Code 50-307.

Issuing animal licenses.¹⁵⁵

Issuing licenses for sale of package beer,¹⁵⁶ package wine,¹⁵⁷ beer by the drink,¹⁵⁸ wine by the drink¹⁵⁹ and liquor by the drink.¹⁶⁰

Publication of legal notices.¹⁶¹

Receipt, approval as to form, certification of petition signatures and oversight of elections resulting from citizen petitions for recall,¹⁶² initiative and referendum,¹⁶³ sale of liquor by the drink,¹⁶⁴ adoption or discontinuation of the council-manager form of government,¹⁶⁵ organization under general laws of the state,¹⁶⁶ consolidation of cities,¹⁶⁷ and disincorporation.¹⁶⁸

Receipt of petitions for creation of local improvement districts,¹⁶⁹ formation of community infrastructure districts,¹⁷⁰ and creation of housing authorities.¹⁷¹

Filing the annual city street finance report with the State Controller's office by December 31 of each year. The report lists revenues and expenditures from the past fiscal year used for construction and maintenance of streets and bridges. The report is also published once as a legal notice between January 1 and 15.¹⁷²

¹⁵⁵ Idaho Code 50-319.

¹⁵⁶ Idaho Code 23-1016.

¹⁵⁷ Idaho Code 23-1315; 23-1318.

¹⁵⁸ Idaho Code 23-1016.

¹⁵⁹ Idaho Code 23-1315; 23-1318.

¹⁶⁰ Idaho Code 23-904; 23-916.

¹⁶¹ For more information on the various Idaho Code provisions requiring publication of legal notices see the *AIC Public Notification Manual*.

¹⁶² Idaho Code Title 34, Chapter 17.

¹⁶³ Idaho Code 50-501.

¹⁶⁴ Idaho Code 23-917; 23-918; 23-919; 23-920.

¹⁶⁵ Idaho Code Title 50, Chapter 8.

¹⁶⁶ Idaho Code Title 50, Chapter 23.

¹⁶⁷ Idaho Code Title 50, Chapter 21.

¹⁶⁸ Idaho Code Title 50, Chapter 22.

¹⁶⁹ Idaho Code 50-1706.

¹⁷⁰ Idaho Code 50-3103.

¹⁷¹ Idaho Code 50-1905.

¹⁷² Idaho Code 40-708.

Filing certified copy of appropriation ordinance with the Idaho Secretary of State's office.¹⁷³

Filing certified copies of annexation ordinances with county auditor, county treasurer, county assessor, and Idaho Tax Commission within 10 days after effective date of the ordinance.¹⁷⁴

The city clerk must also submit the legal description of the annexed area and a map prepared "in a draftsmanlike manner which shall plainly and clearly designate the boundaries of such...municipality...as altered," to be recorded with the county recorder and filed with the county assessor...and with the state tax commission within thirty (30) days" after the effective date of the annexation, but no later than January 10 of the following year.¹⁷⁵

Certification of delinquent special assessments to the county.¹⁷⁶

Sale of lots in city cemeteries.¹⁷⁷

Administering the oath of office to elected and appointed officials, election workers, etc.¹⁷⁸

Serving as an at-large registrar for voter registration.¹⁷⁹

Receipt of petitions for vacation of plats.¹⁸⁰

Serving as the primary point of contact for citizen and media inquiries.

Providing staff support for the mayor and council, including preparing meeting packets with information relating to each agenda item.

Ensuring accurate minutes are taken at city council meetings.

Preparing meeting notices and agendas and posting these at city hall.¹⁸¹

Other duties prescribed by local policy.

¹⁷³ Idaho Code 50-1003.

¹⁷⁴ Idaho Code 50-223.

¹⁷⁵ Idaho Code 50-223; 63-215.

¹⁷⁶ Idaho Code 50-1008.

¹⁷⁷ Idaho Code 50-320.

¹⁷⁸ Idaho Code 50-207.

¹⁷⁹ Idaho Code 34-1402.

¹⁸⁰ Idaho Code 50-1306A.

¹⁸¹ Idaho Code 67-2343.

Responsibilities of the City Treasurer

The city treasurer's responsibilities are set by statute and local policy or practice. As with the other appointed officers, the scope of duties for treasurers varies from city to city. The most important elements are outlined below.

Responsibilities of City Treasurer

Custodian of city revenues, which must be kept at the official place(s) of deposit as provided by ordinance.¹⁸²

Investment of city funds upon resolution of the council.¹⁸³

Investment of sinking funds in excess of the amount required to pay bonds maturing within the current year.¹⁸⁴

Keeping a separate account of each fund or appropriation showing the debits and credits belonging to each.¹⁸⁵

Signing or authorizing checks, along with the mayor, issued by the city to pay for goods or services.¹⁸⁶

Monthly report to the city council on the city's financial situation, including a statement of all receipts and disbursements, and all warrants redeemed.¹⁸⁷

¹⁸² Idaho Code 50-208; 50-1013.

¹⁸³ Idaho Code 50-1013.

¹⁸⁴ Idaho Code 57-601.

¹⁸⁵ Idaho Code 50-208

¹⁸⁶ Idaho Code 50-1018.

¹⁸⁷ Idaho Code 50-208.

Publication of quarterly financial statements listing revenues and expenditures for the fiscal year-to-date for each fund or department, as well as expenditures for the fiscal year-to-date as a percentage of the spending authority set in the appropriations ordinance.¹⁸⁸ The statement must break out expenditures into specific amounts for: capital outlay, personnel expenses and operating and administrative expenditures. The statement must invite citizens to inspect the detailed supporting records of the financial statements. The statement must be published once each quarter as a legal notice within 30 days of the end of the quarter (the final quarter of the fiscal year may be published within 30 days after completion of the annual audit). Failure to publish the quarterly statement is a misdemeanor.

Coordinating the city's financial audit.

Keeping a record of all outstanding bonds, showing the number and amount of each and to whom the bonds were issued; bonds purchased, paid or canceled; and registering the principal amount of bonds at the request of any bondholder.¹⁸⁹ In an annual report, the treasurer summarizes the bonds issued and sold during the year, the terms of sale, and every item of expense relating to the bonds.

Filing a list of all bonds issued with the county recorder's office within 30 days after sale or delivery.¹⁹⁰ The list must include: the amount of bonds issued, the purpose for the bond issue, the dates of issuance, the rate of interest, the length of time the bonds are to exist, the serial numbers of the bonds, and a statement of the amount of bonded indebtedness outstanding. When bonds are redeemed or paid, the treasurer must file a statement with the county recorder's office showing the amount of bonds paid or redeemed and which bonds were paid or redeemed.

Signing bonds.¹⁹¹

Supervising billing and administration of municipal irrigation systems.¹⁹²

¹⁸⁸ Idaho Code 50-1011.

¹⁸⁹ Idaho Code 50-208; 57-401.

¹⁹⁰ Idaho Code 57-301.

¹⁹¹ Idaho Code 57-205.

¹⁹² Idaho Code Title 50, Chapter 18.

Supervising billing and administration of local improvement districts.¹⁹³

Collecting special assessments.¹⁹⁴

Whenever a warrant of the city is not paid for want of funds, the treasurer must endorse thereon “Not paid for want of funds,” with the date of presentation and the rate of interest the warrant will draw, and sign their name.¹⁹⁵

When refunding bonds are sold, the treasurer must deposit the money in a special fund solely for the purpose of payment and retirement of the outstanding bond issue. Any balance remaining after the bonds are paid off may be transferred to the bond interest and sinking fund of the city.¹⁹⁶

Responsibilities of the City Attorney

The city attorney provides advice to city officials on interpreting laws and policies, represents the city in court and is often responsible for drafting ordinances, resolutions and policies. The statutory responsibilities of the city attorney are listed below.

Responsibilities of City Attorney

Legal advisor to the municipal corporation.¹⁹⁷

May represent the city in judicial proceedings.¹⁹⁸

Interpreting provisions of federal, state and local laws and policies.

¹⁹³ Idaho Code Title 50, Chapter 17.

¹⁹⁴ Idaho Code 50-1008.

¹⁹⁵ Idaho Code 31-2125.

¹⁹⁶ Idaho Code 57-502.

¹⁹⁷ Idaho Code 50-208A.

¹⁹⁸ Idaho Code 50-208A.

Often responsible for drafting or reviewing ordinances, resolutions, policies and legal notices.

Approving summaries of adopted ordinances for publication as legal notices in the official city newspaper.¹⁹⁹

Other duties prescribed by ordinance or resolution.²⁰⁰

City may employ additional counsel as necessary.²⁰¹

Prosecuting violations of city ordinances, state traffic infractions, and state misdemeanors committed within city limits—may be done by contract counsel or by contract with the county prosecutor.²⁰²

Signing off on city records proposed for destruction.²⁰³

¹⁹⁹ Idaho Code 50-901A.

²⁰⁰ Idaho Code 50-208A.

²⁰¹ Idaho Code 50-208A.

²⁰² Idaho Code 50-208A.

²⁰³ Idaho Code 50-907.