

Getting Organized and Staying in Compliance



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Introduction

Managing your municipal government can be a daunting task. However, there are certain steps you can take and policies you can adopt that will make the task of managing your municipality much easier. When these policies are adopted by the mayor and council at the beginning of the year, then potential conflict and controversy can often be avoided.

This is not an all-encompassing treatise; rather it is a practical tool to help you manage your municipality's day-to-day operations. The intent of this booklet is to provide you with suggestions and checklists regarding helpful policies you may adopt and the laws governing the organization of municipal government in Arkansas.

Getting Organized

Arkansas Code Annotated (A.C.A.) § 14-43-501 requires that, in January of each year, you meet and set policy on how you want to conduct your council meetings. Listed here is a checklist of activities that, if adhered to, will assist you in complying with the law while avoiding misunderstandings.

Getting Organized Checklist	
Has every required municipal official taken the oath of office? (A.C.A. § 14-42-106)	
Does every elected city official have a copy of the Arkansas Freedom of Information Act? (A copy of the FOIA can be obtained by contacting League headquarters at 501-374-3484 or visiting www.arml.org/pubs .)	
Do you have agreed-upon procedural rules? If not, then adopt some type of parliamentary procedural rules for conducting your council/board meetings. (The League has available <i>Procedural Rules for Municipal Officials</i> , a guide of recommended rules. For a free copy call 501-374-3484 or visit www.arml.org/pubs .)	
Do you know your municipal classification? (A.C.A. § 14-37-101 through 14-37-114) <ul style="list-style-type: none"> • City of the first class • City of the second class • Incorporated town 	
Do you have rules for setting the council agenda? <ul style="list-style-type: none"> • When is it set? • Who sets the agenda? • How do you get an item on the agenda? • How special meetings are called? (A.C.A. § 14-43-502) 	
Do you have rules for public comments during your meetings? They should include: <ul style="list-style-type: none"> • Whether or not to allow comments; • Length of time allotted for comments; • Location on the agenda allotted for comments (i.e. beginning or end of the agenda, or before or after an agenda item); and • A policy to allow comment without discrimination based on the speaker's viewpoint. 	
Does everyone understand what constitutes a meeting quorum and when the mayor can be counted toward the quorum and when the mayor can vote? (A.C.A. § 14-43-501, 14-44-107, 14-45-101(b) and 14-45-105)	

Overview of Elected Official Roles and Responsibilities

Each elected municipal official has particular roles to play and responsibilities to perform, and understanding these helps local governments better serve their citizens. Here is an overview of the different roles mayors and city council members play.

The Mayor

- The mayor presides over meetings of the council.
- The mayor presides over the council in a manner designed to promote high standards of democratic governance and chairs meetings with efficiency and fairness, never discriminating against any speaker, whether council member or member of the public, based on the speaker's point of view.
- The mayor will not use his or her authority to thwart the democratic process.
Example 1: The mayor will not cancel or adjourn meetings for the purpose of preventing a matter from coming to a vote.
Example 2: The mayor will not refuse to allow a matter to be voted upon if it has received the necessary motion and second.
- The mayor should sign all ordinances, resolutions and city council minutes.
- The mayor in cities and towns with mayor/council forms of government may veto any ordinance, resolution or order adopted by the council.
- The mayor has the same speaking rights as any other member of the city council.
- The mayor demonstrates honesty and integrity in every action and statement.
- The mayor recognizes that all electronic transmittals sent or received in performance of their duties as mayor are subject to the Arkansas Freedom of Information Act.

The City Council

- The city council sets the time and place for regular city council meetings.
- The city council demonstrates respect, kindness, consideration and courtesy to others during meetings.
- City council members prepare in advance of meetings and are familiar with the issues on the agenda.
- The city council serves as a model of leadership and civility to the municipality.
- The city council inspires public confidence in local government.
- All members of the city council have equal votes. No council member has more power than any other council member, and each should be treated with equal respect.
- A city council member will remember at all times that as an individual he or she has no legal authority outside the meetings of the city council and that he or she shall conduct relationships with the city staff, the citizens and all modes of communication on the basis of this fact.
- Council members will inform the mayor and the city clerk of plans to be absent from a council meeting or plans to leave a council meeting before it is adjourned.
- A city council member recognizes that all electronic transmittals sent or received in performance of their duties as a city council member are subject to the Arkansas Freedom of Information Act.

Fostering Civility: A Sample Code of Conduct

In an effort to assist Arkansas municipalities in creating an environment that fosters civility, the Arkansas Municipal League staff has prepared a sample code of conduct.

A code of conduct is a set of practices that the municipal leadership agrees to follow. This sample code of conduct has been developed to reinforce the concept that the elected officials serve as role models for their constituents and city staff. By adopting this code of conduct, the governing body publicly sets a civility standard for others to follow and recognizes the importance of trust invested in them by the public to accomplish city business.

The information provided in this document is not all-inclusive, and individual municipalities may wish to add or subtract from its contents. Furthermore, it is recommended that a training session be held at the beginning of each year for all elected city officials on the content of this code.

Principles and Guidelines

The city council shall hold themselves accountable to the following principles and guidelines:

City Council Members' Conduct with One Another

This council is composed of individuals with a wide variety of backgrounds, personalities, values, opinions and goals. Despite this diversity, each council member has chosen to serve in public office in order to preserve and protect the present and the future of the City of _____ . This common goal should be acknowledged even as council members may “agree to disagree” on contentious issues.

1. Conduct in Public Meetings

Practice civility and decorum in all discussions and debate. Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of a free democracy in action. This does not, however, allow council members to make belligerent personal, impertinent, slanderous, threatening, abusive or disparaging comments. No shouting or physical actions that could be construed as threatening will be tolerated. Therefore, the council will:

- Avoid personal comments that could offend other council members.
- Honor the role of the mayor in maintaining order.
- Be respectful of other members of the city council, boards, commissions, committees, city staff and the public by refraining from abusive conduct, personal charges or verbal attacks.
- Treat fellow council members with the respect you expect to receive in return.
- Always address citizens, employees, committee members and fellow council members with respect.
- Request the opportunity to speak and address the council through the mayor or other person conducting the meeting.
- Recognize fellow council members and guest speakers by their formal names and appropriate titles; after initial acknowledgement, the terms “Mr.” or “Ms.” may be used.
- Be respectful of others’ time and be brief and prepared in making remarks.
- Be prompt in attending public meetings so that they may begin at the publicly posted time.

2. Conduct with the Public

Be polite and professional to speakers and treat them with care and gentleness. Because personal concerns are often the reason citizens come before the council to speak, council members should remember that their behavior will either relax the speaker or push their emotions to a higher level of intensity. Therefore, the council will:

- Limit comments to issues and avoid personal attacks.
- Remain seated when someone is speaking at the podium.
- Give the appearance of active listening.
- Ask for clarification, but avoid debate and argument with the public.
- Not engage in personal attacks of any kind under any circumstance.
- Make no promises on behalf of the council or staff.
- Make no personal comments about other council members.

Sample Code of Conduct with Affirmation

City/Town of _____ Code of Conduct

Opening Statement

This code of conduct is designed to describe the manner in which the mayor and council members/board of directors should treat one another and others with whom they come in contact in representing the City/Town of _____.

I affirm that I have read and understand the City/Town of _____ City Council Code of Conduct. The principles and guidelines for mayors and council members set forth in this document promote civility and set a standard of excellence that engenders trust and promotes the public good. This municipality will not condone activities that are in violation of the principles of appropriate conduct.

Mayor

Council Member/City Director

Council Member/City Director

Council Member/City Director

Council Member/City Director

Council Member/City Director

Council Member/City Director

Council Member/City Director

Council Member/City Director

Council Member/City Director

Council Member/City Director

Council Member/City Director

Sample
Resolution Establishing a Code of Conduct

Whereas The City Council/Board of Directors of _____
desires to adopt a code of conduct as a reference and guide for its members.

Now therefore, be it resolved by the City Council/Board of Directors of the
City of _____ to adopt the attached document entitled "Code of
Conduct."

Passed and approved this _____ day of _____ 20____.


By _____
Mayor

Attest:

City Clerk/Treasurer or City Recorder/Treasurer

Personnel Policies

It is critical that everyone understand their role in municipal personnel matters. It is also critical that the mayor and council understand their municipality's personnel policies. The absence of a clear understanding is an invitation for lawsuits.

Personnel Policies Checklist	
Does everyone understand A.C.A. § 14-42-110, which says department heads are appointed and removed by the mayor? The council cannot appoint and remove department heads. However, the council may override the mayor's appointment or removal with a two-thirds vote.	
Do you have a policy on hiring and firing of non-department heads? Who is responsible for this task: the mayor, the department head or the council?	
Do you have a policy statement on "at-will employment?" If you choose not to be an "at-will" employer then make sure everyone understands the meaning of due process. (Note: The absence of an at-will employment policy may exclude you from Municipal Legal Defense Program coverage in some cases.)	
Do you have an updated personnel policy handbook that has been read and signed by all employees?	
Do you have a policy outlining the city's hiring procedures? For example, how will you advertise for, interview and select your employees? Who has authority to hire or fire those employees who are not department heads?	
Do you have job descriptions for all full-time employees? Do they state the essential functions for each position?	
Do you have a federally approved drug-testing policy for all employees who are required to have a commercial driver's license?	

Policies for Uniformed Employees

Be aware that employee benefits differ for your municipality’s uniformed employees.

Policies for Uniformed Employees Checklist	✓
<p>Do you know and understand federal and Arkansas state law regarding your uniformed employees?</p> <ul style="list-style-type: none"> • Sick leave (A.C.A. § 14-52-107, 14-53-108). • Holiday pay (A.C.A. § 14-52-105, 14-53-106). • Vacation days (A.C.A. § 14-52-106, 14-53-107). • Overtime and compensatory time. <p>Note: For more information, please refer to League publications <i>Uniformed Personnel Leave for Arkansas Municipalities</i>, <i>Sample Personnel Handbook for Arkansas Cities and Towns</i> and <i>Understanding Municipal Personnel Law and Suggestions for Avoiding Lawsuits</i>.</p>	
Does your police department have a written policy on “deadly force?”	
Does your police department have a written policy on “pursuit driving?”	
Are all of your uniformed officers properly certified in compliance with Arkansas law?	
Do you have a racial profiling policy (A.C.A. § 12-12-1403)?	

Record Keeping

It is important that your city has record-keeping policies that everyone understands and agrees to follow.

Record Keeping Checklist	✓
Do you have a policy on who signs city checks?	
Do you have a policy that requires two signatures on each check issued by your city government (A.C.A. § 14-59-105(b))?	
Do you have a policy on where records (minutes and ordinances) will be kept?	
Do you have a designated keeper of the records?	
Do you have a policy to process FOIA requests?	
Do you have a record retention policy (A.C.A. § 14-2-203)?	


Budgeting and Finance

Your budget is the principal policy management tool for governing your municipality. It is necessary that the mayor and council understand each other's role and responsibility in managing your municipal budget.

Budgeting and Finance Checklist	✓
Have you prepared an annual budget calendar? (See <i>Municipal Accounting Handbook</i> published by Arkansas Municipal League at www.arml.org/pubs.)	
Have you passed an annual balanced budget by resolution on or before February 1 (A.C.A. § 14-58-202)?	
Is your street turnback revenue properly separated from your general revenue (A.C.A. § 14-59-104(b))?	
Have your city's finances been audited, or have steps been taken to have your city's finances audited annually by a legally approved auditing firm (A.C.A. §§ 14-58-101, 14-58-307 [cities of the first class])?	
Are you properly withholding all of your legally required payroll accounts and making the required payments?	
Have you certified your municipal property tax rate to the county clerk prior to the quorum court meeting at which taxes are levied? The court may hold this meeting in either November or December, so check to make sure which it is. Note: this must be done annually (A.C.A. § 26-73-202, 14-14-904(b)).	
Have you enacted a resolution approving a contract for the sale, purchase or lease of real or personal property (A.C.A. § 14-54-302(b))?	
Are all expenditures within a budget appropriation or an authorizing ordinance or resolution (A.C.A. § 14-55-204, 14-58-203)?	
Have you published your city's annual financial statement by April 1 (A.C.A. § 14-59-116)?	

Purchasing and Bidding

It is important that you have a clear, established and well-understood purchasing and bidding policy.

Purchasing and Bidding Checklist	
Do you have a purchasing ordinance? Does your purchasing policy describe the details of how you go about purchasing all budgeted items for your city (A.C.A. § 14-58-303)?	
Do you use the appropriate non-bidding procedures in contracting for professional services? Professional services include contracts for legal and financial advisory services, architectural and engineering services, construction management, and land surveying (A.C.A. § 19-11-801 through A.C.A. § 19-11-805 and A.C.A. § 19-11-807).	
For cities of the first class, cities of the second class or incorporated towns, do you have a policy that details expenditure amounts that may be made without council approval (A.C.A. § 14-58-305)?	
Do you have a procedure to document the approval of the mayor or their authorized representative for each expenditure (A.C.A. § 14-58-303(a))?	
For cities of the first class, are purchases over \$35,000 bid unless waived by resolution or otherwise excepted (A.C.A. § 14-58-104, A.C.A. § 14-58-303)? Contracts for construction and major repairs over \$50,000 are required to be bid in all cities and towns, regardless of classification (A.C.A. § 22-9-203).	
For cities of the second class and incorporated towns, do you have an ordinance outlining the procedure for making all purchases (A.C.A. § 14-58-303(b)(1)(B))?	
The governing body may enact an ordinance granting bidding preferences of up to five percent (5%) for certain businesses within the city or town. The preference will not apply when federal or state rules or regulations conflict (A.C.A. § 14-58-105).	



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