



CLERK AND TREASURER HANDBOOK

Revised – August 2023

**WYOMING ASSOCIATION OF MUNICIPAL
CLERKS AND TREASURERS
(WAMCAT)**

The Wyoming Association of Municipal Clerks and Treasurers (WAMCAT) is an organization open to all municipal clerks, treasurers, finance officers, their deputies, and other public employees that perform similar duties. The principal purpose of the organization is to promote improvements and efficiency pursuant to the duties of the Clerk and/or Treasurer. The Association promotes cooperation between members through the interchange of ideas, provides educational opportunities through workshops and conferences, and promotes professionalism through certification by one of several recognized organizations.

The Association keeps its members informed through quarterly newsletter publications and membership communications.

The Association is governed by a board of directors and by action taken at the annual business meeting each year.

The first *Handbook* of the Wyoming Association of Municipal Clerks and Treasurers was published in 1982. This *Handbook* may be used as a reference guide as well as the *Handbook for Mayors and Council Members* and the *Budget Preparation Handbook* published by the Wyoming Association of Municipalities.

DISCLAIMER

This *Handbook* should not be used as a substitute for applicable current Wyoming statutes and constitutional provisions and is not intended as legal advice, nor is it designed to replace specialized legal services available to city/town officials through the offices of the various municipal attorneys. In all cases, WAMCAT members are urged to consult with their municipal legal counsel for specific legal advice, as well as to read the specific language of statutes and constitutional provisions, and any relating local ordinances, resolutions, policies, rules and regulations or contractual documents.

HANDBOOK INTRODUCTION

Under Wyoming's Constitution cities and towns serve the primary purpose of allowing people to come together to provide services which meet their needs and desires. Within this governmental framework, municipal clerks, treasurers and finance directors/officers perform certain functions, which facilitate the smooth carrying out of the cities' and towns' powers and duties.

This *Handbook* is designed to serve as a simple reference guide for municipal clerks and treasurers. Its purpose is to provide these officials with a summary of their functions -- those specified in state law and those duties commonly delegated to the clerk or treasurer by the governing body of the city or town -- and the ways in which these functions should be performed.

This *Handbook* should not be used as a substitute for applicable and current State Statutes or laws, or as a replacement for the specialized legal services which are available to municipal officials through the offices of the various city and town attorneys. It is strictly a reference tool to assist you in carrying out the functions of your office.

In addition to the *Handbook*, clerks, treasurers and finance directors/officers are urged to utilize the services of the Wyoming Association of Municipalities (WAM) in searching for the solution to a particular problem. WAM's staff can help you with issues concerning legislation, finance, insurance, as well as the daily issues that confront you. It is also very helpful to be familiar with the various sections of the statutes for the details of legislation referred to in the *Handbook*.

Selected provisions of Wyoming State law are cited throughout this *Handbook*. Rather than footnote each reference, the citation to the applicable law is given in the body of the section. Constitutional provisions, found in Volume 1 of the Wyoming Statutes, are cited by article and section numbers. Statutory provisions are cited by title, chapter, and section numbers which are placed in parentheses following the statement in the body of the study. For example: W.S. 15-1-116 tells us that the law involved is set forth in Title 15, Chapter 1, Section 116 of the Wyoming Statutes, as revised.

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CHAPTER 1

OFFICES OF MUNICIPAL CLERK AND TREASURER

Appointments and Qualifications of Clerk and Treasurer

In cities and towns not operating under the commission or city manager form of government, or a charter ordinance, the clerk and the treasurer are appointed by the mayor and confirmed by the council or confirmed according to the conditions fixed by the governing body (W.S. 15-2-102, W.S. 15-3-204). These offices may be combined in some municipalities. In municipalities operating under the city manager form of government, they are appointed by the city manager. At the current time, no Wyoming cities or towns are operating under the Commissioner form of government.

Qualifications For Appointment

Article 6, Section 15 of the Wyoming Constitution provides that only a qualified elector can be elected or appointed to any civil or military office in the state. A qualified elector is defined as a citizen of the United States who is a bona fide resident of Wyoming and who has registered to vote and will be at least eighteen years of age on the day of the election at which such person may offer to vote. Such person cannot be adjudicated as mentally incompetent or a convicted felon whose civil or voting rights have not been restored (W.S. 22-1-102(a)(xxvi)).

No other qualifications are prescribed by state law. As indicated above, the municipality concerned can specify additional qualifications.

Qualifications Upon Appointment

Before entering upon the duties of their office, the clerk and treasurer take and sign an oath of office, which is filed with the clerk. An example of wording for an oath of office is as follows:

I do solemnly swear (or affirm) that I will support the constitution and laws of the United States, the constitution and laws of the State of Wyoming, and the charter and ordinances of the City/Town of _____, and that I will faithfully, honestly and impartially discharge the duties of (Clerk / Treasurer) to the best of my ability and understanding.

(For general wording of the oath taken by municipal elected officials (Mayors and Council members), refer to Article 6, Section 20 of the Wyoming Constitution.)

Upon assuming the duties of their office, the treasurer must give a bond for the faithful execution of their duties in an amount and upon conditions specified by the governing body. The bonds must be provided by a surety company licensed to do business in this state, and the certified copy of the power of attorney must be attached to the bonds. The cost of the bonds is paid by the municipality. The bond amount of the treasurer shall be determined by the governing body, payable to the city or town. The governing body may require any other official or employee (i.e. clerk, municipal court clerk, deputy treasurer, etc.) to also post bonds for the performance of

their duties (W.S. 15-1-124). Contact your applicable County Treasurer to inquire whether a copy of the Clerk/Treasurer appointment and bond must be provided to them.

Salary and Fringe Benefits

Subject to limitations prescribed by statute, the salaries and fringe benefits of the clerk and treasurer, as well as other employees, are fixed by the governing body (W.S.15-1-103(a)(viii)(xxxvii), W.S. 15-2-103, W.S. 15-3-205, and W.S. 15-4-202(c)(g)).

Discharge

In cities and towns not operating under the commission or city manager form of government, the clerk and/or treasurer may be removed by the mayor for incompetence or neglect of duty (W.S. 15-2-102, W.S. 15-3-204, W.S. 15-1-103(a)(xxxvii)). In municipalities operating under the city manager form of government, the clerk/treasurer serves at the pleasure of the city manager (W.S. 15-4-206(b), W.S. 15-4-202(g)). In cities and towns operating under the commission form of government, the clerk/treasurer can be removed by a majority vote of the council (W.S.15-4-104(b)).

Deputy Clerk and Treasurer

Statutes say nothing about the appointment of a deputy clerk or treasurer or their powers and duties. The governing body may appoint and/or ratify in addition to the appointed officers and employees provided by law, other personnel necessary for the efficient operation of the city or town and prescribe the duties and rules of all appointees (W.S. 15-1-103(a)(xxxvii)(A), W. S. 15-2-102, W.S. 15-3-204, W.S. 15-4-104, W.S. 15-4-202(g)).

TIP: *Information on the Wyoming Association of Municipal Clerks and Treasurers (WAMCAT), including a copy of the Association's Bylaws, can be found in Appendix A.*

GENERAL DUTIES OF THE CLERK AND TREASURER

Office Matters

The municipal clerk and treasurer, as city or town officials, are expected to perform all of the duties imposed on these offices by state laws, by municipal ordinances, and by custom. Municipal office hours are not prescribed by statute. This is left up to the governing body of the city or town. In small towns where the major duties are attending the meetings of the governing body and keeping financial records, the governing body may prefer to not list specific office hours.

Public Relations

In many communities, the clerk is the most accessible public official and, as a result, receives the bulk of the questions and complaints from the public. The clerk is expected to know the answers to these questions and/or to refer the party concerned to the appropriate office.

In answering questions and listening to complaints, the clerk must make every effort to be courteous and helpful. Complaints should be acted on as soon as possible and any necessary follow-ups made. Using a form for recording complaints and action taken may be helpful.

Ethics

Any member of the International Institute of Municipal Clerks, subscribes to the following Code of Ethics:

- *To uphold constitutional government and the laws of my community;*
- *To so conduct my public and private life as to be an example to my fellow citizens;*
- *To impart to my profession those standards of quality and integrity that the conduct of the affairs of my office shall be above reproach and to merit public confidence in our community;*
- *To be ever mindful of my neutrality and impartiality, rendering equal service to all and to extend the same treatment I wish to receive myself;*
- *To record that which is true and preserve that which is entrusted to me as if it were my own; and*
- *To strive constantly to improve the administration of the affairs of my office consistent with applicable laws and through sound management practices to produce continued progress and so fulfill my responsibilities to my community and others.*

General Duties of Clerk

The clerk is the general record keeper and recorder for the city or town. All major actions, records, and transactions are typically completed or filed in the clerk's office. If a task has not been delegated to some other officer, the clerk will most likely be responsible for handling the item in question.

The clerk should strive to attend all official meetings of the governing body, record its proceedings, and maintain custody of all minutes, ordinances, resolutions, contracts and agreements, and other legislative and historical documents of the governing body and the municipality. Upon request, the clerk furnishes copies of municipal records to the general public for which a reasonable fee may be charged pursuant to W.S. 16-4-201 through 205.

Notary Public Duties

Many clerks are commissioned (through the Wyoming Secretary of State) as Notary Publics. For information on notary publics and the Wyoming Uniform Law on Notarial Acts refer to W.S. 32-1-105 through 32-1-109, and W.S. 34-26-101 through 34-26-304. Clerks may administer oaths pursuant to W.S. 15-1-109 and W.S. 1-2-103.

Election Duties

If the municipality holds separate primary and general elections, the clerk determines that all persons seeking nomination for municipal offices are qualified candidates, prepares the ballots, designates the polling places, and otherwise conducts the elections.

If the municipality holds its primary and general elections in conjunction with county or statewide elections, they are held at the same time and place, in the same manner, and are conducted by the same officials as the county or statewide elections. When this is done, the city (town) clerk certifies the names of all qualified municipal candidates, the term, and the office for which each seeks nomination at the primary election to the county clerk. For more details see Title 22 of Wyoming State Statutes. Additional information is listed in the Elections chapter of this Handbook.

TIP: To contact the Elections Division in the Secretary of State's Office, call 307.777.5860; email: elections@wyo.gov. Website is: <http://soswy.state.wy.us>

Duties Relating To Municipal Finances

The clerk or treasurer draws all checks or warrants and, except for cities and towns operating under the city manager form of government, countersigns them; certifies that all bonds have been lawfully issued; and commonly acts as chief budget officer for the city or town.

Publication Duties

In most cases the clerk is responsible for seeing that actions of the governing body, meetings, public hearings, liquor license renewals, bids, and other items are properly advertised in the official newspaper of the municipality. Publication responsibilities may be pursuant to state statute, city/town code or pursuant to rules and regulations. Samples of many of the publication requirements are shown in Appendix B.

General Duties of Treasurer (Clerk/Treasurer)

Except for cities and towns operating under the city manager form of government or a charter ordinance, the treasurer (or clerk/treasurer if the two offices have been combined) is the custodian of all moneys belonging to the city or town. The duties of such custodian are to:

1. Receive all moneys belonging to the municipality;

2. Keep accounts and books in the manner prescribed by law;
3. Keep the municipality's moneys separate and distinct from personal and other funds;
4. Disburse the municipality's moneys only upon proper authorization;
5. Submit interim reports of the receipts and expenditures of the city (town) monthly or as specified by the governing body; and
6. Prepare an annual report which shows in detail all receipts and expenditures and the state of the treasury.

TIP: Refer to Chapter 6, *Municipal Finance*, for more information.

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CHAPTER 2

GOVERNING BODY DUTIES

Meetings of the Governing Body: Time, Place and Nature of Meetings

Public meetings of the governing body shall be held in accordance with W.S. 16-4-401 through 16-4-408. In the absence of a statutory requirement, the governing body of a municipality shall provide by ordinance, resolution, bylaws or rule for holding regular meetings unless the municipality's normal business does not require regular meetings in which case the municipality shall provide notice of its next meeting to any person who requests notice. A request for notice may be made for future meetings of an agency. The request shall be in writing and renewed annually to the agency (W.S. 15-1-105, W.S. 16-4-404(a)).

A quorum, which consists of a majority of the qualified members of the governing body, is necessary for the transaction of business, but any number may adjourn a meeting to compel the attendance of and punish absent members. "Qualified member" means any member of a governing body who was elected or appointed thereto in accordance with all applicable provisions of law (W.S. 15-1-101(a)(xiii)). The governing body, by a two-thirds vote of the members present, may meet in executive session and exclude the public (W.S. 15-1-105 and W.S. 16-4-405). Day to day administrative activities are exempted from the minutes and notification requirements (W.S. 16-4-403(c)(i)(ii), W.S. 16-4-404(e)).

Except as otherwise provided in the law, all meetings of the governing body and all other boards, commissions, and agencies (as defined in W.S. 16-4-402(ii)) of the municipality must be open to the public at all times. Any action taken which is not in conformity with this law is null and void. A member of the public is not required as a condition of attendance at any meeting to register their name, to supply information, to complete a questionnaire, or fulfill any other condition precedent to their attendance except that a person seeking recognition may be required to give his/her name and affiliation (W.S. 16-4-403(a-c)).

TIP: *No meeting shall be conducted by electronic means or any other form of communication that does not permit the public to hear, read or otherwise discern meeting discussion contemporaneously. Communications outside a meeting, including, but not limited to, sequential communications among members of an agency, shall not be used to circumvent the purpose of the Public Meetings Act (W.S. 16-4-403(d)).*

The governing body may recess any regular, special, or recessed regular or special meeting to a place and at a time specified in an order of recess pursuant to W.S. 16-4-404(c).

Emergency Meetings

Although notice of all meetings must be given as provided in the law, an emergency meeting on matters of serious immediate concern may be held for the purpose of taking temporary action without giving notice; however, reasonable efforts must be made to offer public notice. All

action taken at an emergency meeting is of a temporary nature and in order to become permanent shall be reconsidered and acted upon at an open public meeting within 48 hours, excluding weekends and holidays, unless the event constituting the emergency continues to exist after 48 hours. In such case the governing body may reconsider and act upon the temporary action at the next regularly scheduled meeting of the agency, but in no event later than 30 days from the date of the emergency action (W.S. 16-4-404(d)).

Special Meetings

Special meetings can be called by the presiding officer of a governing body by giving verbal, electronic or written notice of the meeting to each member of the governing body and to each newspaper of general circulation, radio, or television station requesting the notice. Special meetings may also be called by a majority of the qualified members of the governing body. The notice shall specify the date, time, location, and the business to be conducted at the meeting. The notice must be issued at least 8 hours prior to the commencement of the meeting. No other business can be considered at a special meeting. Proof of delivery of verbal notice to the newspaper of general circulation, radio or television station may be made by affidavit of the clerk or other employee or officer of the agency charged or responsible for distribution of the notice of the meeting (W.S. 15-1-105 and 16-4-404(b)).

***TIP:** There is no specific statutory definition of a “newspaper of general circulation.” Good judgment based upon the intent of the law and local conditions should be exercised to fulfill the requirement of keeping the local citizens informed. (State statutes of interest: W.S. 15-1-116 and W.S. 18-3-518 and 18-3-519 (pertains to county commissioners)).*

Executive Sessions

The right to go into executive session is restricted by the public meetings law (W.S. 16-4-401 *et seq.*).

Executive sessions (meetings closed to the public) can be held (W.S. 16-4-405):

1. With the attorney general, county attorney, district attorney, city/town attorney, sheriff, chief of police or their respective deputies, or other officers of the law on matters posing a threat to the security of public or private property, or a threat to the public’s right of access;
2. To consider the appointment, employment, right to practice or dismissal of a public officer, professional person or employee, or to hear complaints or charges brought against an employee, professional person, or officer, unless the person concerned requests a public hearing. Witnesses at either a private or public hearing can be excluded during the examining of all the other witnesses. Following the hearing, be it open or closed, the governing body may deliberate on its decision in executive sessions;
3. On matters concerning litigation to which the governing body is a party or proposed litigation to which it may be a party;

4. On matters of national security;
5. By a licensing agency while preparing, administering or grading examinations;
6. When considering and acting upon the determination of the term, parole or release of an individual from a correctional or penal institution;
7. To consider the selection of a site or purchase of real estate when publicity regarding such consideration would cause a likelihood of an increase in the price;
8. To consider the acceptance of gifts, donations, and bequests which the donor has requested in writing be kept confidential;
9. To consider or receive information classified as confidential by law;
10. To consider the acceptance or tender of offers regarding wages, salaries, benefits, and terms of employment during all negotiations;
11. To consider suspensions, expulsions or other disciplinary action in connection with any student as provided by law (W.S. 16-4-405)(a)).

During an executive session minutes shall be maintained. Except for those parts of minutes of an executive session reflecting a members' objection to the executive session as being in violation of the public meetings act, minutes and proceedings of executive sessions shall be confidential and produced only in response to a valid court order (W.S. 16-4-405(b)). If the nature of the business so requires, the governing body by a vote of two-thirds (2/3) of the members present, may go into executive session and exclude the public therefrom (W.S. §15-1-105). A motion to hold an executive session which specifies any of the reasons set forth above shall be sufficient notice of the issue to be considered in an executive session (W.S. 16-4-405(c)).

Any member or members of the governing body (or an "agency" as defined in W.S. 16-4-402(a)(ii)) who knowingly and intentionally violates the provisions of the public meetings act shall be liable for a civil penalty not to exceed \$750.00 except as provided in W.S. 16-4-408.

W.S. 16-4-408 states that any member of the governing body of a city or town or an agency who attends or remains at a meeting knowing the meeting is in violation of the public meetings act shall be liable unless minutes were taken during the meeting and the parts thereof recording the member's objections are made public or at the next regular public meeting the member objects to the meeting where the violation occurred and asks that the objection be recorded in the minutes. If any action is prohibited both by the public meetings act and any provision of Title 6, Wyoming Statutes, the provisions of Title 6 shall apply (Refer to the section below regarding Disruption of Public Meetings).

Conduct of Meetings

State law requires the governing body to specify the rules it will follow in the conduct of its proceedings, and to keep a journal thereof which is a public record. The manner in which each member votes on any matter upon which a vote is taken shall be entered in the journal (W.S. 15-1-106).

TIP: *Many municipalities have adopted Robert's Rules of Order, Newly Revised. If there are rules the governing body wishes to "exempt" itself, with regard to Robert's Rules, be sure to include those provisions in the adopting document.*

Disruption of Public Meetings

If a public meeting is willfully disrupted by a person or group of persons as to render the orderly conduct of the meeting unfeasible, and order cannot be restored by the removal of the person(s) who are willfully interrupting the meeting, the governing body may order the removal of the person or group from the meeting room and continue in session, or may recess the meeting and reconvene at another location. Only matters appearing on the agenda may be acted upon in a meeting recessed to another location. The governing body shall establish procedures for readmitting the individuals not responsible for the disturbing the conduct of a meeting. Duly accredited members of the press or other news media except those who participated in a disturbance shall be allowed to attend the reconvened meeting (W.S. 16-4-406).

W.S. 6-6-301 through 6-6-307 contains information on unlawful conduct within governmental facilities.

Minutes of Meetings

The governing body is required to designate a "legal newspaper" and to publish once, the minutes of all regular and special meetings, and titles of all ordinances passed. Within 12 days after each meeting adjourns, the clerk must furnish a copy of the proceedings of the meeting to the newspaper. Except for salaries and wages published pursuant to W.S. 15-1-110(b), the copy must include any bill presented to the governing body and must show the claimant, the purpose and amount of the bill and the amount allowed. If no newspaper is published in the city or town, the proceedings or ordinances shall be posted for at least ten days in the city or town clerk's office and such other places as the governing body determines (W.S. 15-1-110(a)). The newspaper must publish the minutes within nine days after receipt. Minutes should include the entitlement of each ordinance, resolution, etc. introduced, considered or acted upon by the governing body at the meeting.

TIP: *The city/town should designate an official newspaper. If more than one newspaper is published within the municipality, the governing body may determine either one or both of them to be the official newspaper(s) for publication purposes (W.S. 15-1-110, W.S. 15-1-116)*

Minutes of a meeting:

1. Are required to be recorded but not published from meetings when no “action” is taken by the governing body;
2. Are not required to be recorded or published for day-to-day administrative activities of the governing body (or agency) or its officers or employees.

“Action” is defined in W.S. 16-4-402(a)(i). Consideration of these unpublished minutes *may* be placed on the agenda for the next council meeting for approval (consult with your city/town attorney). Minutes of regular, special, and emergency meetings should be placed on the agenda of the next council meeting for approval.

Order of Business

Each governing body should establish an order of business (meeting agenda) which it follows in its meetings unless there is good reason to depart from it. A definite, well understood order of business promotes the orderly and efficient transaction of business.

TIP: *More information on Meetings of the Governing Body may be found in the Wyoming Mayor-Council Handbook – contact the Wyoming Association of Municipalities (WAM) office.*

Publication of Names, Salaries and Wages

A city or town required to publish minutes shall separately publish within 60 days after the end of each fiscal year, the name, position, base annual salary and amount of overtime pay paid to each full-time employee and elected official. A brief statement shall accompany the salary publication specifying that all salaries are listed as base annual salaries or actual wages, any benefits such as health insurance costs, life insurance benefits and pension plans. The statement shall also indicate that the any overtime the employee earned and was paid by the city or town is included (W.S. 15-1-110(b)(i)). Additionally, undercover personnel working in law enforcement do not have to be included in the salary listing (W.S. 15- 1-110(d)).

Agenda

Although not specifically required by law, an agenda should be utilized for every meeting. An agenda is an outline of the matters to be considered, sets forth the order of business to be followed and lists the items to be brought up under each heading in the order of business.

The agenda is typically prepared by the clerk with approval of the presiding officer of the governing body. In preparing the agenda, the following usually is done:

1. Department heads and other municipal officials submit all matters to be included on the agenda before a fixed deadline. If there is no standing rule to this effect, the clerk may have to contact these parties and obtain the matters they expect to report or bring before the governing body;
2. Pursuant to the agenda format, communications from citizens or groups who wish to address the governing body are assembled;
3. Matters to be acted on by the governing body are itemized together with some explanatory material under the proper headings in the order of business;
4. A preliminary draft of the agenda is prepared and checked for accuracy and completeness; and
5. After approval by the presiding officer, the final draft is duplicated and distributed to the members of the governing body, and applicable city or town officials, and is made available to news media and other interested parties. It is good public relations to have sufficient copies on hand so that one is available to each visitor at the meeting.

Consent Agenda

Proper use of a consent agenda can assist with more efficient meetings of the governing body. A consent agenda is grouping of routine, non-controversial matters that are to be considered as a single item of business. These matters can be grouped together as a separate item of business, or they can be listed throughout the meeting with a special symbol to designate them as a part of the consent agenda. See Appendix C for samples of consent agendas.

Selection of Matters For Consent Agenda

Once the governing body has decided to use a consent agenda format, it must determine the types of business that are to be considered routine and non-controversial. Following guidance from the governing body, the clerk or other administrative staff may select the specific matters which are to be placed on the consent agenda for each meeting. Check with your city/town attorney with regard to placing ordinances on the consent agenda due to provisions of W.S. 15-1-115(c) that state every ordinance shall be publicly read on three different days (public reading may be by title only).

Approval of Consent Agenda

The consent agenda is considered early in the meeting. Since it is treated as a single item of business, one motion covers all of the matters listed in the consent agenda. However, each item should be recorded individually and in full in the minutes of the meeting.

Removal of Item(s) From Consent Agenda

Since all of the matters listed in the consent agenda are treated as a single item of business, individual matters cannot be discussed unless they are removed from the consent agenda.

The governing body, when it decides to use a consent agenda, should also establish procedures concerning removal of items from such agenda. The governing body may consider providing an opportunity for a local citizen to state why they feel an item should be removed from the consent agenda for debate. If any items are removed from the consent agenda, the items should be discussed and voted on separately. This can be done either immediately after the remaining consent agenda items have been approved or in their normal sequence on the meeting agenda.

TIP: *It is suggested that the consent agenda item be preceded by an explanatory note on the agenda, such as: "All matters listed under the consent agenda are considered to be routine items by the governing body and will be enacted by one motion. There will be no discussion of these items. If discussion of any item is desired, that item will be removed from the consent agenda and considered separately." See Appendix C for samples of consent agendas.*

MOTIONS, RESOLUTIONS AND ORDINANCES

Motions

A motion is a proposal made by a member of the governing body that the body takes a specified action. For example: Approve the treasurer's report, payment of bills, adopt a resolution or approve an ordinance, adjourn, etc. Whether a given motion requires a second before it can be considered depends upon the rules of parliamentary procedure adopted by the governing body.

TIP: *See "Handling of Motions" in the chapter on "Meetings of the Governing Body" of the Wyoming Mayor-Council Handbook for a brief explanation of generally accepted rules for the handling of motions.*

Recording of Motions

The clerk should record what actually happens at a meeting, not necessarily everything that was said. The substance of the motions should be clearly stated in the minutes. In some instances -- for example, a motion to amend -- the motion should be recorded exactly as made or as re-stated by the chair. The names and, depending on style preference, title of the person making the motion and the person seconding it, if any, should be stated.

Recording of Vote

The manner in which each member of the governing body votes on any matter upon which a vote is taken must be entered in the journal (record of proceedings) (W.S. 15-1-106).

The mayor has one vote on all matters coming before the governing body upon which a vote is taken, except a vote (W.S. 15-1-108(a)(vi)):

1. To override veto;
2. To confirm an appointment other than a vote to break a tie vote of the governing body; and
3. Pursuant to a hearing for removal or discharge as provided in W.S. 15-2-102(b)(iv)(C) or W.S.15-3 204(b)(iv)(C)).

MAYORAL VETO

In cities not operating under the commission or city manager form of government, a mayor is entitled to sign or veto any ordinance passed by the governing body and to sign or veto any order, bylaw, resolution, award or vote to enter into any contract, or the allowance of any claim. A veto may be overridden by a vote of two-thirds of the qualified members of the council. If the mayor neglects or refuses to sign any ordinance and fails to return it with his/her objections in writing at the next meeting of the governing body, it becomes law without their signature. The mayor may veto any item of any appropriation ordinance and approve the remainder thereof. The items vetoed may be passed over the veto as in other cases. The mayor does not have a vote in any matter involving the override of a veto (W.S. 15-2-104 (towns), W.S. 15-3-201 (First Class Cities)).

RESOLUTIONS

Purpose

Wyoming law states that unless otherwise provided by law, all municipal legislation must be accomplished by ordinance. As an exception, licenses may be granted by resolution (W.S. 15-1-114(a)). Budgets may also be approved by resolution or ordinance if a municipality falls under the Uniform Municipal Fiscal Procedures Act (W.S. 16-4-111).

There often is confusion as to the difference between an ordinance and a resolution and as to when each should be used. An ordinance is law and is used whenever the governing body intends to prescribe a permanent rule of conduct or government which is general in application-- for example: all appropriations, building codes, traffic regulations, zoning regulations, etc. A resolution, on the other hand, is used whenever the governing body wishes to express its opinion on some matter, extend a vote of thanks or censure, or when the order of the governing body is of a special or temporary character -- for example: making statements of policy or support, adopting and/or amending the body's rules of procedure, granting of licenses, etc.

Form

Ordinarily, a resolution will be presented in writing. Although no particular form generally is required by statute, the following form is commonly used:

1. Title. Although not specifically required, a resolution usually has a title which clearly expresses the purpose of the resolution;
2. Preamble. The preamble states the reason(s) for the resolution. It is usually written as a “Whereas, ...” clause. As in the case of a title, a preamble is not required but commonly is used; and
3. The Body (Resolution proper). The body or resolution proper is made up of one or more resolving clauses which sets forth what the resolution actually does. The wording is usually “Now, Therefore Be It Resolved, that ...”, commonly referred to as the enacting or enabling clause.
4. Written resolutions, following adoption, should be signed by the presiding officer with their signature attested by the city/town clerk with the city/town seal affixed.

Adoption

Adoption of a resolution may be moved by the member introducing it or by any other member of the governing body. The vote of each member on the resolution must be recorded (W.S. 15-1-106). Adoption of a resolution requires an affirmative majority vote of governing body members in attendance at the meeting.

Except when otherwise provided by state law or city code, resolutions need not be published or posted to be effective.

Resolutions may be recorded by entitlement or in full in the record of proceedings.

ORDINANCES

Purpose

As noted previously, all municipal legislation must be accomplished by ordinance unless otherwise provided by law (W.S. 15-1-114(a)). The general requirements for the adoption, amendment, and repeal of an ordinance are set forth in the statutes (W.S. 15-1-115 through W.S. 15-1-119). Budgets may also be approved by ordinance or resolution if a municipality falls under the Uniform Municipal Fiscal Procedures Act (W.S. 16-4-111).

Form

Normally, the clerk should not be expected to draft ordinances. Nevertheless, some knowledge of the form of an ordinance may be helpful.

All ordinances must be in writing. No ordinance except one making appropriations, one codifying ordinances, or one making a general revision of ordinances, may contain more than one subject which must be clearly expressed in the title of the ordinance. Even when it is an ordinance making appropriations, or one codifying ordinances, or one making a general revision

of ordinances, it must be limited to that particular subject -- appropriations, codification or a general revision (W.S. 15-1-115(a)).

In general, there are six parts to an ordinance. They are:

1. The title--a general statement of its contents which clearly specifies the matters contained in the ordinance;
2. The enacting or enabling clause--simply states that the ordinance is to be made law and the legislative body which will pass it. The required wording is: "Be it ordained by the governing body of the city (town) of ...". (W.S. 15-1-115(a));
3. The body -- the detailed provisions of the ordinance are set forth here. It should be arranged in sections with each section containing a single provision. The sections should be numbered and titled and arranged in a logical sequence;
4. The penalty clause--if the ordinance provides for a penalty if it is violated, the penalty is stated here;
5. The repealer clause states that other ordinances or parts of ordinances that are in conflict are repealed. This clause consists of a general statement to that effect; and it may, in addition to the general statement, identify specific laws that are in conflict; and
6. The saving or severability clause--states the governing body's intent that the ordinance is to be enforced even though parts of it may be declared invalid.

Ordinances should also include the dates of the 1st, 2nd and 3rd and final readings, signature of the presiding officer (following approval on 3rd and final reading), attested by the city/town clerk. The city/town seal should be affixed.

Manner of Enactment

All ordinances must be passed in accordance with the rules and regulations adopted by the governing body and in compliance with state law. All ordinances must be publicly read--the reading can be by title only--on three different days, and there must be a minimum of ten days between the introduction and final passage of the ordinance. If the ordinance is an emergency ordinance (W.S. 15-1-101(a)(iii)), these requirements can be suspended if three-fourths of the qualified members of the governing body vote to do so. Per state statute, an emergency ordinance means an ordinance operating for the immediate preservation of the public peace, safety or welfare, in which the emergency is defined. Franchises cannot be granted by an emergency ordinance. Passage of an ordinance requires the affirmative vote of the majority of the qualified members of the governing body (see W.S. 15-1-101 for definition of qualified member). However, if it is an emergency ordinance, an affirmative vote of three-fourths of the qualified members is required for passage (W.S. 15-1-115).

When Effective

Approval of an ordinance on 3rd and final reading requires an affirmative majority vote of all qualified members of the governing body regardless of who may be present at the meeting (other readings require an affirmative majority vote of those members of the governing body present to advance the ordinance to the next reading). To become effective, all ordinances, other than emergency ordinances, must be published once in a newspaper of general circulation, which maintains a physical office at which advertisements are accepted and which is open to the public during regularly set business hours within the boundaries of the city or town. The newspaper must publish the ordinance within nine days of receipt. If there is no such newspaper, they must be posted for a minimum of ten days in the city (town) clerk's office and such other places as the governing body may direct. Emergency ordinances become effective upon proclamation by the mayor, and as soon thereafter as is practicable they shall be published and posted in the manner required of other ordinances. Per W.S. 15-1-101(a)(iii), an emergency ordinance is defined as "an ordinance operating for the immediate preservation of the public peace, health, safety or welfare, in which the emergency is defined". A recodification or revision of ordinances are published by title only with a brief summary of the recodification or revision.

Every ordinance, within a reasonable time after passage, must be signed by the mayor, attested by the clerk with the city/town seal affixed, and recorded in the ordinance book within a reasonable time after its passage. The clerk's attestation must show the date the ordinance was duly published or posted (W.S. 15-1-116).

Adoption of a Code by Reference

All or any part of the Uniform Act Regulating Traffic on Highways (found in Title 31 of the Statutes), and of any national building, electrical, fire prevention, and plumbing codes, and the Wyoming public works standard specifications (published by the Wyoming Public Works Council) can be adopted by reference. The ordinance must state whether all or, if not all, what parts are adopted, and describe them by reference to the sections of the act or code adopted.

The act or code adopted by reference need not be published, but the ordinance must state that a copy of such act or code is on file and available for examination in the city (town) clerk's office.

The rules and regulations in effect in the city (town) are those contained in the act or code at the time it was adopted by reference. Subsequent changes in the act or code so adopted do not become a part of the rules and regulations of the city (town) until they have been adopted by ordinance (W.S. 15-1-119).

Amendment and Repeal

An ordinance may be amended or repealed only by another ordinance, which must be adopted with the same formalities as the ordinance being amended or repealed. An amending ordinance must state the entire ordinance or section(s) proposed to be amended (W.S. 15-1-117).

Referendum

An ordinance adopted by the governing body of a city or town is subject to a referendum vote if a petition signed by ten percent (10%) of the qualified electors registered in the municipality is filed with the city (town) clerk not later than twenty (20) days after the ordinance is first published after adoption as provided by law. To be counted, the electors shall be registered voters when the completed petition is submitted for verification. The referendum petition shall set forth the ordinance in full and shall contain the signatures and residence addresses of persons signing the petition (W.S. 22-23-1005).

The municipal clerk shall determine if the referendum petition meets the requirements of W.S. 22-23-1005, and if the clerk finds a petition legally sufficient, the clerk shall certify it to the governing body who shall suspend the ordinance. If the governing body does not entirely repeal an ordinance subject to referendum, it shall submit the question to the electors of the municipality in the same manner as an ordinance proposed by initiative petition (W.S. 22-23-1007 and 22-23-1003).

If a majority of the electors voting on the question favor rejection, the ordinance shall not become effective. If a majority of the electors do not favor rejection, the ordinance shall become effective after the vote is canvassed (W.S. 22-23-1005 through W.S. 22-23-1007).

Municipal clerks should consult with their respective city/town attorney for legal assistance involving referendum petitions and ordinances proposed by initiative petition.

Codes and Codification

Many cities and towns codify their ordinances in a code book. The code book is usually an entirely new, or revised, codified or classified organization of applicable ordinances, by chapter and subject matter, in one book. In the preparation of codes, ordinances can be updated and reviewed to determine if they conform to current statutes and should be eliminated if they are outdated, or should be changed if they conflict with other ordinances. Consult with your city/town attorney to determine whether ordinances of an administrative nature (ie: ordinances pertaining to annexation, zoning, personnel, etc.) should be included in the code book.

TIP: Many Wyoming municipal codes are available on the Internet.

HOME RULE AND CHARTER ORDINANCES

Purpose

The purpose of Home Rule is to give municipalities the widest possible latitude in the handling of their local affairs and was granted to all Wyoming cities and towns by a Constitutional Amendment which became effective on December 12, 1972. The Wyoming Constitution (Article 13, Section 1, as amended) empowers all cities and towns to provide for their own

government and local affairs by ordinance. This power to determine their local affairs is subject to certain restrictions and provisions outlined in the Constitution.

TIP: For more detailed discussion of the “Home Rule” amendment, refer to the *Wyoming Mayor-Council Handbook*.

CHARTER ORDINANCES

Purpose

Subject to the limitations specified in Article 13, Section 1 of the Wyoming Constitution, any city or town can, by charter ordinance, free itself from the effects of all or any part of a statute that is not uniformly applicable to all cities and towns that otherwise would apply to it.

Form

Each charter ordinance must meet the same requirements as to form as all other ordinances and contain information as required in the Constitution (Article 13, Section 1 (c)).

Any interpretation of Home Rule and procedures involving a Charter Ordinance should be through the city/town attorney.

THE JOURNAL

Purpose

As previously noted, the governing body must make a written record of its proceedings. This record--the journal--is kept by the city (town) clerk. The statutes do not specify any particular form for the journal. The journal may be a single book or consist of a minutes book, an ordinance book, and a resolutions book. Regardless of the form in which it is kept, the minutes journal should contain the record of proceedings of each meeting (Exception: Minutes of an executive session pursuant to the Public Meetings Act). Information recorded, though not legally required unless otherwise indicated, should include:

1. The date and time of the meeting; the place of the meeting; whether it was a regular, special, emergency or adjourned meeting; name and title of the person presiding; and the presence of a quorum;
2. A record of the presence and absence of each member;
3. Approval of the minutes of the previous meeting(s);
4. A summary of all committee reports, unless written reports are appended to the minutes;

5. A record of each main motion, including the wording of each motion, the name of the person making the motion, the fact that it was seconded and the name of the person making the second, if it was seconded, and its disposition;
6. A record of how each member voted on any matter upon which a vote was taken (W.S. 15-1-106);
7. All ordinances and resolutions must be recorded in a book kept for that purpose. The attestation of the clerk shall show that the ordinance was duly published or posted. (W.S. 15-1-116(b)).
8. A record of all other motions (for motions which were withdrawn or did not receive a second to the motion, consult with your city/town attorney);
9. All points of order and appeals and the ruling of the presiding officer together with the reasons given for the ruling;
10. A record of all roll call votes;
11. The names of all persons appearing before the body and the nature of their requests;
12. The time of adjournment; and
13. The signature of the mayor (presiding officer) and clerk with the city/town seal affixed.

The journal should be typewritten or completed with the aid of a computer and commonly available word processing software. Wide left-hand margins should be provided for the making of corrections, notations, and indexing. Corrections are made by bracketing the erroneous portions and placing the correct portion in the margin - the original should not be erased, defaced or crossed out. All pages in the journal should be consecutively numbered.

As noted above, if the ordinances are recorded in a separate book, the minutes need not record the ordinance in full. The minutes should state the nature of each ordinance, give its number assigned, and reflect the action taken. The same procedure is followed if a separate resolutions book is kept.

Indexing of Minutes

All minutes should be indexed. A common method is card indexing or computerized indexing of each topic acted upon as reflected in the minutes. Any indexing system should include the ability to index any future amendments and provide topic cross-referencing.

CHAPTER 3

CLERK OF MUNICIPAL COURT

Introduction

The purpose of W.S. 5-7-101 through W.S. 5-7-107 is to give an overview of the duties and responsibilities of the Clerk of each court. The provisions describing the duties of clerks of district courts shall, so far as they are applicable, apply to the clerks of other courts of record. Provisions generally regarding Municipal Courts may be found at W.S. 5-6-101 through 5-6-304.

Overview

The procedure of the municipal courts shall conform to the procedure provided by law and rules of procedure for courts of limited jurisdiction. The incorporated city or town may by ordinance provide any additional rules or procedure found necessary for the proper conduct of municipal courts, provided these rules do not conflict with the general laws of the state. Appeals to the district court shall be allowed in all cases as now provided by law for appeals from circuit courts (W.S. 5-6-106).

General Duties of the Clerk of Court

The clerk of each of the courts shall exercise the powers conferred and perform the duties enjoined upon them by statute and by the common law; and in the performance of their duties they shall be under the direction of the court.

Precipe for writs and process

All writs and orders for provisional remedies and process of every kind shall be issued by the clerks of the several courts; but before they are issued, a precipe shall be filed with the clerk demanding the same.

Filing; preserving and use of papers; records retention

The clerk shall file together and carefully preserve in their office, all papers delivered to them for that purpose in every action or proceeding. The clerk shall not permit the papers to be taken from their office except to be used at a session of the court or upon legal process, and shall be liable upon their official bond to the party suffering injury on account of a violation of this section. This does not apply to matters in probate. Upon the order of the judge of the district, the clerk may transmit by express or registered mail to an attorney of the state appearing in the action or proceeding, who resides in a different county or away from the county seat, such original files as are not represented by copies in the clerk's office, and the clerk shall take the attorney's receipt for each paper in each case. Records should be maintained and kept on file pursuant to the minimum time frame set forth in municipal court records retention schedules established by Wyoming State Archives within the Wyoming Department of State Parks and Cultural Resources. W.S. 9-2-401 through 9-2-413 contains provisions relating to retention of public records.

TIP: Information on Wyoming State Archives and records management, including municipal records retention schedules and digital archives, can be found at the State Archives website at <http://wyoarchives.state.wy.us>

Endorsement papers

The clerk shall endorse upon every paper filed with them the date of the filing thereof, and upon every order for a provisional remedy, and upon every undertaking given under the same, the date of its return to their office.

Keep books and make records

The clerk shall keep the journals, records, books and papers appertaining to the court, and record its proceedings.

Record of orders out of court

Orders made out of court shall be forthwith entered by the clerk in the journal of the court, in the same manner as orders made in term.

Costs

Each city or town in the state of Wyoming may prescribe by ordinance such costs in all trials before municipal courts as may be necessary or deemed expedient. However, the costs shall not exceed ten dollars (\$10.00). All costs collected shall be turned into the treasury of the city or town. By ordinance a city or town may also prescribe costs for participation in the following:

1. Account for Judicial System Automation

W.S. 5-2-120 provides for the creation of a “judicial systems automation account” which will fund the automation of Wyoming Courts to include municipal courts of towns and cities that choose to participate. According to W.S. 5-6-108, any city or town wishing to participate in the court automation program can prescribe, by ordinance, a court automation fee of ten dollars (\$10.00) as a cost to be paid by every person guilty of a violation of a city or town ordinance.

2. Account for Indigent Civil Legal Services

W.S. 5-2-121 provides for the creation of an “indigent civil legal services account” administered by the supreme court for the establishment and operation of a statewide program to provide civil legal services to indigent individuals within the state. According to W.S. 5-6-108, any city or town wishing to participate can prescribe, by ordinance, an indigent civil legal services fee of ten dollars (\$10.00) as a cost to be paid by every person guilty of a violation of a city or town ordinance.

Disposition of Fines and Penalties

For incorporated towns, W.S. 5-6-303 provides that all fines and penalties collected, arising from a breach of the ordinances of the town, shall be paid into the town treasury. If a town enacts an ordinance prescribing a court automation fee as provided in W.S. 5-6-108, up to one-half (1/2) of the fee may be retained by the town solely for the purpose of defraying costs and expenses related to establishing and maintaining an electronic citation system. The system shall collect and submit data in a form and manner prescribed by the supreme court to comply with the requirements of the judicial systems automation account under W.S. 5-2-120. The remaining portion of the fee shall be remitted to the judicial systems automatic account. If a town enacts an ordinance prescribing an indigent civil legal services fee as provided in W.S. 5-6-108, the fee shall be remitted to the indigent civil legal services account.

For first class cities, W.S. 5-6-204 provides that all fines and penalties collected and arising from a breach of a city ordinance shall be deposited with the city treasurer, and the municipal judge shall report at the end of each calendar month a list of all cases for violations of city ordinances instituted in their court, and the disposition thereof, with a statement of the fines, penalties and cost received. At the end of each month the judge shall deposit with the city treasurer all fines, penalties and costs received. If the municipal judge fails to report and deposit all fines, penalties and costs for a period of 25 days, their office shall be declared vacant. If a city enacts an ordinance prescribing a court automation fee as provided in W.S. 5-6-108, up to one-half (1/2) of the fee may be retained by the city solely for the purpose of defraying costs and expenses related to establishing and maintaining an electronic citation system. The system shall collect and submit data in a form and manner prescribed by the supreme court to comply with the requirements of the judicial systems automation account under W.S. 5-2-120. The remaining portion of the fee shall be remitted to the judicial systems automation account. If a city enacts an ordinance prescribing the indigent civil legal services fee as provided in W.S. 5-6-108, the fee shall be remitted to the indigent civil legal services account.

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CHAPTER 4

PUBLIC RECORDS

Provisions of the Wyoming Public Records Act are contained in W.S. 16-4-201 through 16-4-205. Discuss any requests for public records that are of concern (voluminous in content; may involve confidentiality, litigation or clarification of request; electronic records requests; difficulty in fulfilling, etc.) with your city/town attorney. Included in the Definitions section of the act are the following (refer to W.S. 16-4-201 for the complete Definitions listing):

“Application” means a written request for a public record. However, a designated public records person may in his discretion deem a verbal request to be an application.

“Designated public records person” means the person designated as required by W.S. 16-4-202(e) or that person’s designee

“Information” means opinions, facts, or data of any kind and in whatever physical form kept or maintained, including, but not limited to, written, aural, visual, electronic or other physical form.

“Political subdivision” means every county, city and county, city, incorporated and unincorporated town, school district and special district within the state.

“Public records” when not otherwise specified includes any information in a physical form created, accepted, or obtained by a governmental entity in furtherance of its official function and transaction of public business which is not privileged or confidential by law. Without limiting the foregoing, the term “public records” includes any written communication or other information, whether in paper, electronic, or other physical form, received by a governmental entity in furtherance of the transaction of public business of the governmental entity, whether at a meeting or outside a meeting. Electronic communications solely between students attending a school in Wyoming and electronic communications between students attending a school in Wyoming and a sender or recipient using a non-school user address are not a public record of that school. As used in this paragraph, a “school in Wyoming” means the University of Wyoming, any community college and any public school within a school district in the state.

Right of inspection; rules and regulations; unavailability.

W.S. 16-4-202 states, in part, that all public records shall be open for inspection by any person at reasonable times, during business hours of the governmental entity, except as provided in this act or as otherwise provided by law, but the governmental entity may make rules and regulations with reference to the inspection of the records as is reasonably necessary for the protection of the records and the prevention of unnecessary interference with the regular discharge of the duties of the governmental entity. All applications for public records shall be made to the designated public records person.

This section of the act also states if the public records are not in the custody or control of the governmental entity to whom application is made, the designated public records person shall notify the applicant with seven (7) business days from the date of acknowledged receipt of the

request of the unavailability of the records sought, unless good cause exists preventing a response within such time period. In the event the applicant is not satisfied that good cause exists, the applicant may petition the district court for a determination as to whether the custodian has demonstrated good cause existed. W.S. 16-4-202 also provides

Electronic records.

W.S. 16-4-202(d)(i) through (v) specifically address public records that exist primarily or solely in electronic format, in which case the custodian of the record shall so inform the requester. Electronic record inspection and copying are subject to the following:

Reasonable costs of producing a copy of the public record shall be borne by the party making the request. The costs may include the cost of producing a copy of the public record and the cost of constructing the record, including the cost of programming and computer services.

A governmental entity shall provide an electronic record, if requested, in alternative formats unless doing so is impractical or impossible.

A governmental entity shall not be required to compile data, extract data or create a new document to comply with an electronic record request.

A governmental entity shall not be required to allow inspection or copying of a record in its electronic format if doing so would jeopardize or compromise the security or integrity of the original record of any proprietary software in which it is maintained.

W.S. 16-4-202(d)(v) provides that nothing in this section shall prohibit the governor from enacting any rules pursuant to their authority under W.S. 19- 13-104.

TIP: *Seek advice from your city/town attorney with regard to the difference between producing a copy of an electronic public record vs. constructing an electronic record relative to whether a fee may be assessed to the requesting party.*

Designated public records person

W.S. 16-4-202(e) states each governmental entity shall designate a person to receive all applications for public records. The designated public records person shall be an employee, officer, contractor or agent of the governmental entity. The governmental entity shall submit the name, business email address and business mailing address of the designated public records person to the department of administration and information for publication on the department of administration and information official website. The designated public records person shall serve as a point of contact between the governmental entity and the applicants seeking public records.

TIP: *Submit your Designated Public Records Person at ai.wyo.gov/about-us/transparency/public-records*

Right of inspection; grounds for denial; fees.

W.S. 16-4-203 and 204 provides information on the right of inspection of public records; grounds for denying requests based on exceptions outlined in the statutes; process for an applicant to contest the custodian's denial of access to the public record, and reasonable fees that may be set if the applicant requests to be furnished with copies, printouts or photographs of records. Per the statutes, a fee cannot be charged as a condition of making public records available for inspection only.

W.S. 16-4-205 provides information about penalties relating to violation of the act.

Records Management for Municipalities

W.S. 9-2-401 through 9-2-413 pertains to the management of public records, including retention provisions for permanent and non-permanent records and disposition of same (pursuant to the state records retention schedules for political subdivisions).

W. S. 9-2-410 states: "All public records are the property of the state. They shall be delivered by outgoing officials and employees to their successors and shall be preserved, stored, transferred, destroyed or disposed of, and otherwise managed, only in accordance with W.S. 9-2-405 through W.S. 9-2-413."

W. S. 9-2-401(a)(v) defines "public record" to include the original and all copies of any paper, correspondence, form, book, photograph, photostat, film, microfilm, sound recording, map, drawing or other document, regardless of physical form or characteristics, which have been made or received in transacting public business by the state, a political subdivision, or an agency of the state. W.S. 9-2-405 explains how public records are classified.

TIP: *The Wyoming State Archives Division can provide extensive information on records management, including retention schedules for political subdivisions, and guidelines and forms. Contact information: Wyoming Department of State Parks and Cultural Resources, Archives Division, Barrett Building, Cheyenne, WY 82002; telephone (307) 777-7826; website: <http://wyoarchives.state.wy.us>*

How to use Retention Schedules

State approved retention schedules for political subdivisions give agencies the authority to destroy records, if they choose, after the records have been retained the prescribed time.

Records scheduled as PERMANENT, or those having significant historical value, shall not be destroyed or removed from your custody. Permanent records may be microfilmed and the hard copy destroyed after checking the film quality and transferring the camera negative to State Archives. A copy of the negative shall be retained by the governmental entity or officer having custody of the writings or papers that have been recorded or copied as the official copy. Consult

with State Archives staff if you are contemplating an electronic document imaging system to preserve a municipality's permanent records.

Municipal records retention schedules may be found on the State Archives website at <http://wyoarchives.state.wy.us>

Uniform Electronic Transactions Act (W.S. 40-21-101 through 40-21-119)

This act applies to electronic records and electronic signatures relating to a transaction.

“Transaction” is defined in W.S. 40-21-102(a)(xvi). Although this act does not require the use of electronic signatures (W.S. 40-21-105) it does protect those who use electronic records and signatures of their own accord to the extent that a record or signature may not be denied legal effect or enforceability solely because it is in electronic form, that a contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation, and finally, if the law requires a record to be in writing or requires a signature, an electronic record or electronic signature will be satisfactory under the law (W.S. 40-21-107).

Except as otherwise provided in W.S. 40-12-112(f), each governmental agency (includes municipalities) of this state shall determine whether, and the extent to which, the governmental agency will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use and rely upon electronic records and electronic signatures. The act does not require a governmental agency of this state to use or permit the use of electronic records or electronic signatures.

CHAPTER 5

GUIDELINES AND POLICIES – PERSONNEL

A municipality may establish personnel guidelines and/or policies pursuant to state statute and municipal ordinances. In establishing or maintaining policies there are several purposes to be achieved for both the municipality and the employee:

1. To ensure uniform, consistent and fair administration of personnel matters;
2. To encourage employees to provide the highest level of service to the municipality;
3. To attract to municipal service the best and most competent individuals available for a given position;
4. To assure the manner in which employees are treated in regard to pay and other employment benefits, the handling of grievances, working conditions, and other conditions of employment which have a direct impact on the effectiveness and efficiency of the programs and services provided.

Employee rules and regulations may be promulgated through provisions of the Wyoming Administrative Procedure Act (W.S. 16-3-101, *et seq.*).

Role of the Clerk

The clerk's role may vary depending upon the organization and size of the city or town. The clerk's involvement in the personnel management process may range from keeping essential personnel records, including payrolls and related financial records, to being a department supervisor and/or assistant to the chief human resource administrator. Regardless of the specific duties to be performed, each clerk should be familiar with the municipality's personnel program, including local, state and federal employment regulations.

Publication of Names, Salaries and Wages

A city or town required to publish minutes shall separately publish within 60 days after the end of each fiscal year, the name, position, base annual salary and amount of overtime pay paid to each full-time employee and elected official. A brief statement shall accompany the salary publication specifying that all salaries are listed as base annual salaries or actual wages, any benefits such as health insurance costs, life insurance benefits and pension plans. The statement shall also indicate that the any overtime the employee earned and was paid by the city or town is included (W.S. 15-1-110(b)(i)). Additionally, undercover personnel working in law enforcement do not have to be included in the salary listing (W.S. 15- 1-110(d)).

Drug and Alcohol Testing

The Omnibus Transportation Employee Testing Act of 1991 requires that all municipalities adopt a policy and implement a drug and alcohol testing program for certain employees who

must have a Commercial Driver License (CDL) as part of their job requirement. The act also mandates pre-employment, reasonable suspicion, post-accident, random, and follow-up/return to duty drug and/or alcohol testing of state employees in positions requiring the possession of a Commercial Driver License and defined as safety-sensitive. The implementation of this program is required for all municipalities commencing January 1, 1996. The federal mandate involves employees who are in safety-sensitive functions whether full time, seasonal, intermittent, or occasional drivers.

Employee Restrictions

Officers and employees of cities and towns are strictly prohibited from soliciting or receiving any pay, commission, money or thing of value, or deriving any benefit, profit or advantage, directly or indirectly, from or by reason of any improvement, alteration or repair required by authority of the city or town, or any contract to which it is a party, except his/her lawful compensation as an officer or employee and except as otherwise provided in W.S. 15-1-127(b) and (c).

Additionally, no public employee is allowed to solicit, accept or receive, directly or indirectly, from any public service corporation, or the owner of any public utility or franchise of the city, any pass, free ticket or favor upon terms more favorable than those granted the public generally, unless the individual is regularly employed by any public service corporation or owner of a public utility or franchise and that free service or favor is given to all other similar employees (W.S. 15-1-128). Any officer or employee who violates W.S. 15-1-128 shall be subject to removal from their position or other disciplinary action after hearing.

No qualified member of the governing body, officer or employee may receive any pay or perquisites from the city other than their salary for any work coming within the scope of their duties as provided by ordinance and the law (W.S. 15-1-127(d)).

Any officer or employee of the city, town or joint powers board who aids any bidder or respondent in securing a contract to furnish labor, material or supplies at a higher or lower price than that proposed by any other bidder or respondent, or who favors one bidder or respondent over another by giving or withholding information, or who willfully misleads any bidder or respondent in regard to the character of the material or supplies called for, or who knowingly certifies to a greater amount or different kind of material or supplies than has been actually received, is guilty of malfeasance, which renders their office vacant (W.S. 15-1-113(j)).

TIP: Refer to W.S. 6-5-101 through 6-5-118 relating to criminal offenses by public officials affiliated with duties and responsibilities. W.S. 9-13-101, et seq. contains the Government Ethics and Disclosure Act; certain provisions are applicable to municipal elected officials.

Eligibility

Each new employee must be verified that he/she is legally eligible to work in the United States. The Immigration and Naturalization Service (INS) Form I-9, Employment Eligibility

Verification, must be completed including recording employees' names and numbers from social security cards.

Liabilities

Social Security and Medicare Taxes - These taxes are levied on both the employee and the employer at a rate of 7.65% each. The social security rate is 6.2% and the Medicare rate is 1.45%. The employer, must withhold the employee's part of the taxes, and must deposit both the employee's and employer's share of the taxes. Social security taxes are subject to a wage base limit, whereas, all covered wages are subject to Medicare tax.

W.S. 27-4-104(a) sets forth the timeframe in which wages must be paid with regard to termination or retirement of employees.

Income Tax Withholding

Withhold tax from each wage payment according to the employee's Form W-4 and the correct withholding rate.

Benefits

Provisions may be made within a municipality's personnel policy to offer a benefits program. A benefits program is designed to provide employees with security to encourage service and high productivity.

Retirement

The Wyoming retirement system is established to provide retirement and other benefits to eligible employees of participating employers (W.S. 9-3-403). The Wyoming Retirement Board is responsible for the administration of the retirement system.

Information concerning the retirement system and contributions required (by employer and/or employee) as well as the Wyoming deferred compensation program is located in W.S. 9-3-401, *et seq.*

Additional information relating to retirement and other benefits for applicable employees, including law enforcement and firefighter employees, may be found at W.S. 9-1-709, W.S. 9-3-431 and 432, and W.S. 15-5-201 through W.S.15-5-422.

Rehired Retirees

Former employees who have retired under the Wyoming Retirement System can be rehired after a minimum 30-day break in service. The rehired employee remains retired for purposes of the pension system and their pension payment contains unchanged. However, the full contribution to the pension system, both employee and employer payments, are required to be submitted in order to maintain the fiscal integrity of the pension system.

Mayor and Council Pay

The salaries for all mayors and council members shall be established by ordinance before their terms begin and shall not change during the term for which they are elected.

For first class cities operating under the city manager form of government, the salary for council members shall not be more than \$150 for actual attendance at each regular or special meeting. The salary for mayor shall not be more than twice the salary of the other council members (W.S. 15-4-201(b)).

For towns not operating under either the commission or city manager form of government, the salary for council members shall not be more than \$150 for actual attendance at each regular or special meeting. The annual salary for mayor shall not be more than \$24,000 and must be paid in twelve or more installments (W.S. 15-2-103).

No Wyoming municipalities currently use the commission form of government. Salary requirements for this form are found in W.S. 15-4-105.

TIP: Title 27 of Wyoming Statutes contains provisions involving numerous labor and employment topics, including unemployment compensation, worker's compensation, collective bargaining for fire fighters and fair employment practices.

CHAPTER 6

MUNICIPAL FINANCE

OVERVIEW OF CITY AND TOWN FINANCES

Administration

While the governing body of the city or town is responsible for the proper administration of the details of administering the city's (town's) financial affairs, the details involved in such administration are often handled by the municipality's treasurer and clerk – in many small Wyoming municipalities these two offices are sometimes combined into one.

Statutory general powers for cities and towns allow all governing bodies to:

1. Control the finances of the municipality (corporation), including providing by ordinance for:
 - a. The preparation, maintenance, and retention of required records and accounts;
 - b. Any reports required by the State Auditor;
 - c. If deemed necessary, the preparation of independent audits of the financial condition of the municipality, which shall be conducted by a certified public accountant or a public accountant who has been in the practice of public accounting for a period of five years as a principal;
2. Appropriate money by ordinance, pay expenses, including supplies, employee salaries, and debts;
3. Levy and collect assessments against persons or property to the extent allowed by the constitution and the law;
4. Borrow money for corporate purposes as allowed by the constitution and laws, and issue warrants and bonds in such amounts and forms and on such conditions as the governing body determines;

Generally, the office of clerk and clerk-treasurer is filled by appointment of the mayor and confirmed by the governing body. In the city manager form of government, the manager makes the appointment. The treasurer must have a performance bond payable to the city or town, in an amount as the governing body determines, issued from a surety company licensed to do business

in the state of Wyoming. The bond and any filing costs shall be paid by the municipality and the bond must be filed with the city/town clerk (W.S. 15-1-124).

TIP: *Except as authorized by law, pursuant to Wyoming Constitution, Article 16, §6, a municipality cannot loan or give its credit or make donations to or in aid of any individual, association or corporation, except for necessary support of the poor; nor subscribe to or become the owner of capital stock of any association or corporation (exceptions are noted in the Constitution). W.S. 15-1-103(a)(xlv) authorizes governing bodies to contract with nonprofit corporations, hospitals and clinics to provide human services for persons within its jurisdiction. W.S. 15-1-111 authorizes governing bodies to make appropriations from the general fund for advertising city/town resources; furthering its industrial development or encouraging exhibits at fairs, expositions and conventions, but does not authorize appropriations for the express aid of any private citizen, firm or corporation.*

Fiscal Training for Public Officers

The Department of Audit creates training requirements for Public Officers, which includes the governing body and persons directly responsible for handling the accounts of their public office. Online training resources will be available as well as training resources from various associations and boards and approved trainings can be found on the Department of Audit website here: <https://audit.wyo.gov/public-funds/training-public-officer>. This training must be completed within one year of taking office (W.S. 9-1-510).

GASB 34 (Governmental Accounting Standards Board)

This law was designed to make municipalities more fiscally accountable to the public. This law represents a significant change to traditional municipal financial reporting statements. As of June 1999, accrual accounting is required for all government activities and all capital assets are generally required to be depreciated. Governmental agencies that are subject to GASB 34 include but are not limited to: general purpose governments, public school districts, public benefit corporations, public utilities, public hospitals and health care providers and public colleges or universities. GASB 34 requires that fixed asset records must be maintained by public entities in a complete, accurate and detailed manner and that governments report all capital assets with the consideration for depreciation, including infrastructure assets and “historical treasures.” Finally, governments should report all capital assets, including infrastructure assets, in the government-wide statement of net assets and generally should report depreciation expense in the statement of activities. Capital assets are those assets that have a useful life extending beyond a single reporting period. Capital assets should be recorded at their original cost.

TIP: *Information on GASB standards and current news is available on its website at <http://www.gasb.org>*

Wyoming Uniform Unclaimed Property Act

The Wyoming Uniform Unclaimed Property Act (W.S. 34-24-101 through W.S. 34-24-140) is administered through the State Treasurer in accordance with a law passed in 1993. Unclaimed property refers to all intangible property, as defined in W.S. 34-24-102(a)(x) and in conjunction with W.S. 34-24-103, held for an extended period of time. The law protects unclaimed property and was set up to return it to its true owners or heirs. Under the law, holders of unclaimed property must make an effort to locate the true owners. If they are unsuccessful, they are to report the names and last-known addresses of the owners to the Unclaimed Property Division.

Unclaimed property that municipalities may be holding includes customer overpayments, utility deposits, checks that have not been cashed, credit balances, and refunds due. Certain property seized by law enforcement is not subject to the Act (W.S. 7-2-105).

The Act requires that all financial institutions, businesses, and other holders such as municipalities who have possession, custody, or control of moneys, rights to moneys, or other intangible property, must review their records once each year to determine if they are in possession of deposits or other unclaimed funds, to file an annual report of their findings, and to pay their unclaimed funds to the state.

TIP: Under Wyoming law, unclaimed property is remitted to the State when:

- 1) There is no owner-generated activity in the account for the time frame established per property type.
- 2) The holder's attempt to contact the owner fails. The Unclaimed Property Division publishes the owners' name in a statewide newspaper.

The law provides civil penalties of \$100 per day for failure to report unclaimed funds.

The money or property that is never claimed remains in the Unclaimed Property fund. Interest on the fund is deposited in the State General fund.

Reports by holders of unclaimed property must be filed no later than November 1 each year for the reporting period ending June 30 next preceding. Upon written request the administrator may postpone the reporting date.

TIP: For details on the program, forms and instruction, contact the Wyoming Unclaimed Property Division, 2020 Carey Avenue, 4th Floor, Cheyenne, WY 82002; telephone (307) 777-7408; website <https://statetreasurer.wyo.gov> (NOTE: This is a temporary address for the Division due to the Capitol Building Renovation Project)

Claims

All claims against the municipality have to be presented to the governing body by itemized invoice from the vendor. No payment can be approved by the governing body unless the claim is certified by the vendor or an authorized employee of the municipality receiving the items or services rendered. Once the claim has been approved, the treasurer shall issue a check or warrant, signed by the mayor and countersigned by the treasurer or, in the treasurer's absence, any other authorized person. For cities and towns operating under the city manager form of government, the check or warrant is signed by the manager and countersigned by the mayor.

If there is not sufficient money in the treasury to pay the warrant, the warrant shall draw interest at the rate of ten percent per year (W.S. 15-1-125(a)(b)). W.S. 15-1-125(c) states that this section does not apply to claims under W.S. 1-39-101 through W.S. 1-39-119 (Wyoming Governmental Claims Act).

Collecting Monies

Every person collecting or receiving monies for the municipality shall settle with the city/town treasurer on or before the last day of each month, or as directed by the governing body, and shall immediately pay all money into the treasury (W.S. 15-1-126).

Except as provided by contract, any agency including political subdivisions which purchases or secures services involving public works contracts from a non-governmental entity shall pay the amount due within 45 days after receipt of a correct notice of the amount due for the goods or services provided or shall pay interest from the 45th day at a rate of 1.5% per month on the unpaid balance until the account is paid in full, unless a good faith dispute exists as to the agency's obligation to pay all or a portion of the account (W.S. 16-6-602).

According to W.S. 15-1-103(a)(xlix), and, unless specifically prohibited by statute, the governing body of any city/town may accept negotiable paper in payment of any tax, assessment, license, permit, fee or fine, etc. Negotiable paper includes a lender credit card (as defined in W.S. 40-14-140(a)(ix) and subject to W.S. 18-3-505).

Prohibitions and Perquisites

No member of the governing body or an immediate family member may receive any monetary or other benefit from any contract to which the municipality is a party. Exceptions exist to this mandate if certain conditions are met (W.S. 15-1-127).

No member of the governing body, officer or employee may receive any pay or perquisites from the municipality other than their salary. Prohibitions also exist for officers and employees from receiving gratuities from certain businesses (W.S. 15-1-128).

TIP: See Chapter 5, *Personnel/Employee Restrictions of this Handbook for more information.*

The Treasurer

The treasurer has custody of all monies belonging to the city (town). As custodian, the treasurer is responsible for the proper receipt and use of such moneys regardless of who actually receives and/or pays out the municipality's money. Funds belonging to the city (town) must be kept separate and distinct from the personal funds of the person handling municipal moneys. City (town) moneys collected by the county treasurer are payable to the city (town) treasurer upon demand. Moneys received and collected by other city (town) officers are accounted for and paid into the treasury as the governing body directs (W.S. 15-1-126). Municipal funds are paid out upon proper authorization, as established by the governing body. Subject to limitations of law, the treasurer must deposit or invest the monies received as the governing body directs.

Facsimile signatures may be used as provided by law (W.S. 16-2-101 through W.S. 16-2-103). Signatures and facsimile signatures must be filed with the Secretary of State on a form provided by the State.

Accepting or Borrowing Funds from other Units of Government

Cities and towns are authorized to enter into any activity or participate, join, and cooperate in such activity with other governments or political subdivisions or their agencies or departments, if funds thereof can be borrowed from or are made available, whether on a matching basis or not, by the United States Government or the State of Wyoming or subdivision, department, or agency of either (W.S. 15-1-103(a)(xlii)). Title 15 requires that before the governing body enters into an agreement to borrow money from the federal or state government to fund a public improvement project to be repaid solely from revenues generated by the project, the proposal to enter into the loan agreement must be submitted and approved at a municipal election if the total amount to be borrowed exceeds the greater of \$5,000,000 or an amount calculated by multiplying the number of individuals to be served by the proposed public improvement project times \$1,200 (W.S. 15-1-103(d)).

Treasurers in Towns having a Population Less Than 4,000

Duties

The treasurer of a town is appointed by the mayor with the consent of the governing body and may be removed by the mayor (W.S. 15-2-102).

The treasurer of a town shall keep the accounts of the town so as to show when and from what sources all moneys paid have been derived and to whom and when moneys have been paid out. The books, accounts, and vouchers are at all times subject to examination by the governing body or any elector of the town. It is the duty of the treasurer to provide the governing body with periodic financial reports at times determined by the governing body, but not less than quarterly, and in a form as the governing body requires (W.S. 15-2-203).

Immediately after the end of the fiscal year, the governing body shall publish in a newspaper, if one is published in the town, or if there is none, then a posting in three or more public places, an exhibit of the receipts and expenditures. This exhibit must show the budgeted and actual receipts for all revenue sources, the amount and purpose of each appropriation, and the actual expenditure made against each appropriation (W.S. 15-2-204).

Treasurers in First Class Cities and Municipalities falling under the Uniform Municipal Fiscal Procedure Act

Municipality, with regard to falling under the Uniform Municipal Fiscal Procedures Act, refers to all incorporated first class cities, towns having a population in excess of 4,000 inhabitants and all towns operating under the city manager form of government W.S. 16-4-102(a)(xiv).

Treasurer Duties – First Class Cities

The treasurer of a first class city is appointed by the mayor with the consent of the governing body and may be removed by the mayor (W.S. 15-3-204).

If the treasurer neglects or fails to provide financial reports as required by the governing body, the mayor may declare the office vacant and fill the vacancy by appointment (W.S. 15-3-208).

The treasurer shall receive all moneys belonging to the city. The clerk and treasurer shall keep books and accounts in a manner prescribed by W.S. 16-4-101 through W.S. 16-4-124. The books and accounts may be inspected at any time by the mayor, councilmen, and other persons designated by law (W.S. 15-3-209).

The treasurer shall not, either directly or indirectly, use the corporation money or warrants in their custody for their own use and benefit or that of any other person. If anyone violates this provision, the mayor may remove the person from office immediately and declare the office vacant. If an office is declared vacant, the mayor shall fill the vacancy by appointment according to W.S. 15-3-204 (W.S. 15-3-210).

The governing body shall cause to be published a semi-annual interim financial statement and an annual statement of the financial condition of the city (W.S. 15-3-306).

The treasurer draws all warrants and, except in cities and towns operating under the city manager form of government, countersigns them (W.S. 15-1-125, and W.S. 15-4-213); certifies that all bonds have been lawfully issued; and commonly acts as chief budget officer for the municipality.

Warrants (checks)

No payment of funds is to be made until a warrant or check has been properly drawn (W.S. 15-1-125). Upon allowance of any claim or demand by the governing body, the treasurer shall issue a check or warrant for the correct amount. The check or warrant shall be signed by the mayor countersigned by the treasurer or any other person (often the city/town clerk) the governing body designates to countersign checks or warrants in the treasurer's absence. W.S. 15-1-125(c) states that this section does not apply to claims under W.S. 1-39-101 through W.S. 1-39-119 (Wyoming Governmental Claims Act).

For cities and towns operating under the city manager form of government, the check or warrant is signed by the manager and countersigned by the mayor. (For further information regarding authority of the city manager relative to finances and warrants, refer to W.S. 15-4-201, *et seq.*).

A warrant contains:

1. The particular fund or appropriation to which chargeable;
2. The person to whom payable; and
3. The purpose thereof.

The treasurer keeps a register of all warrants redeemed and paid during the year. This record shows:

1. The number of the warrant;
2. The date it was issued;
3. The amount of the warrant;
4. The fund from which paid;
5. The person to whom paid; and
6. When it was aid.

It should be noted that warrants require a special endorsement if there are not sufficient funds in the treasury to pay the warrant. The treasurer shall endorse on the warrant the date and a statement that it has been presented for payment but has not been paid for want of funds (W.S. 15-1-125, W.S. 15-2-203 and W.S. 16-6-602).

TIP: *W.S. 15-1-901 states that any city or town may provide public band concerts for the entertainment of their residents and pay the expense out of any monies in the general fund. The band concerts shall be given at a place designated by the governing body.*

Uncollectable Accounts

Any debt that is determined to be uncollectible shall be certified to the governing body by the chief administrative officer. The governing body shall review the debt and verify to its satisfaction that the debt is uncollectible. If the governing body determines the debt is uncollectible, the debt shall be discharged and the facts and actions that are the basis for the decision shall be documented in writing and maintained as required under state statutes (W.S. 9-2-410 and W.S. 16-4-502).

Limitation on Expenditures

In towns not operating under the city manager form of government, no contract or expenditure can be made by the governing body or committee or member thereof, or any of the officers of the town unless an appropriation has previously been made (W.S. 15-2-201(e)).

In cities and towns operating under the city manager form of government, no warrant (check) may be drawn in payment of a claim of more than \$50 until the claim is certified by the manager and allowed by resolution of the governing body (W.S. 15-4-302).

Deposits by Political Subdivisions

To the extent that moneys are not otherwise invested, the monies collected by a municipal treasurer shall be deposited and kept on deposit at all times in: banks and savings and loan institutions incorporated under state laws, federal savings and loan associations, or national banks. The treasurer must use the institution(s) approved by the governing body. Deposits must be fully insured by the Federal Deposit Insurance Corporation or secured by bank pledge. Any bank or other specified entity may be able to keep moneys under specified conditions (W.S. 9-4-817).

Investment of Public Funds

A municipal treasurer may only invest public moneys in institutions authorized by statute and as approved by the governing body. A listing of the types of investments allowed and related rules are listed in W. S. 9-4-831.

TIP: *The State of Wyoming operates the WYO-STAR local government investment pool program that provides a mechanism for investing in a short-term pool. For more information on the program, contact the State Treasurer's Office at (307) 777-7408; website: <https://statetreasurer.wyo.gov>*

Statement of Investment Policy

Municipalities are required to adopt a "Statement of Investment Policy". The law provides that no person may affect any investment transaction or offer investment advice to the governing body until that person has signed a statement saying the person has read the political subdivision's investment policy and agrees to abide by state law regarding investments. "Person" does not include any officer, employee or member of the governing board of the political subdivision for which the investment is made or to which advice means the local government entities listed in W.S. 9-4-831(a).

TIP: *A sample investment policy may be obtained through the WAM office.*

Governmental Accounting and Reporting

Requirements

All cities and towns are required to keep records of their financial transactions.

Each of them must have an accounting system which:

1. Makes it possible to determine that the city (town) has complied with all applicable laws and regulations; and

2. Makes a full and fair disclosure of the city's (town's) financial position and the results of its financial operations.

Fund Accounting

Governmental accounting systems should be organized and operated on a fund basis. A fund is defined as a group of accounts that is a separate, self-balancing entity. A fund includes balance sheet accounts as well as revenue and expenditure accounts. The various funds of a city or town are generally grouped into generic types:

1. General fund – all financial transactions not properly accounted for in another fund;
2. Special revenue funds – proceeds of specific revenue sources other than special assessments or to finance specified activities as required by law or regulation;
3. Debt service funds – payment of principal and interest on long-term debt other than special assessment and revenue bonds;
4. Capital project funds – receipt and disbursement of moneys used for the acquisition of capital assets other than those specified by enterprise and special assessment funds;
5. Special assessment funds – receipt and disbursement of moneys received from special assessments levied against properties specially benefited by the making of local improvements;
6. Enterprise funds – financing of services to the general public where most or all of the costs involved are paid by the users of the services;
7. Trust and agency funds – assets held by a governmental unit as trustee or agent for individuals, private organizations, and other governmental units; and
8. Intergovernmental funds – the financing of special activities and services performed by a designated unit within a governmental jurisdiction for other organization units within the same governmental jurisdiction.

Under governmental accounting procedures, one to up to three different ledgers may be used to keep track of the amount of the budget, the amount of expenditures (or revenues received), and encumbrances which are obligations incurred by ordering goods, materials, or services which have not yet been delivered or are unpaid.

Basis of Accounting

The accrual basis transactions are recorded when they occur regardless of when cash is received or disbursed and is recommended for enterprise, trust, capital projects, special assessment, and intragovernmental service funds. For the general, special revenue, and debt service funds, the modified accrual basis is used. Here expenditures other than accrued interest on general long-

term debt are recorded at the time liabilities are incurred and revenues are recorded when received in cash, except for material or available revenues which should be accrued to reflect properly the taxes levied and revenues earned.

Financial Reports

The governing body should receive some form of monthly report on the financial condition of the city (town) from the treasurer. This report should at least account for where all cash assets of the city (town) are located and the totals, and the unaudited fund balances for each fund which should be reconciled with the cash on hand. The report should show the city's (town's) performance on a monthly basis against the budget for the fiscal year involved.

At the end of each fiscal year, a comprehensive annual report covering all funds and financial operations of the city or town must be prepared and delivered to the governing body.

Financial Reporting: Annual Financial Statements

This section provides information on the requirements for each city or town to report on the financial condition of the entity. One of the reasons for the reporting is to provide information to taxpayers who provide the revenues. In addition, the Census Bureau requires data collection, regulators such as the Department of Audit, the State Loan and Investment Board and others who have an interest in how and where public funds are spent all find it necessary to gather financial data. Based on the financial information provided by cities and towns, decisions are also made about the amount of public funds "at risk" and then the second phase, the "oversight process" is activated.

All cities and towns are required to complete the Annual City and Town Financial Report, F-66, WY-2. For all first-class cities, towns over 4,000 in population and those with a city manager form of government, Wyoming Statutes require an annual CPA audit. Some towns also choose to have a CPA audit, even though they are not required to do so.

Towns under 4,000 in population are required to have an independent audit when they receive at least \$750,000 total in Federal grants or loans. These are usually in the form of recreation grants, CDBG money, JTPA funding and EPA grants for water and wastewater. Always be sure to review any grant agreement for audit requirements before you sign it. Knowing the audit requirements up-front will help you in record-keeping and other monitoring you must do as a recipient of that money.

TIP: *The Government Finance Officers Association (GFOA) provides several reporting guidelines helpful to municipalities, and several Wyoming municipalities have received awards for their financial reports. To learn more about membership in GFOA, contact a WAMCAT Board member or visit the GFOA website: <http://gfoa.org>*

BUDGETING

Requirements

Under Wyoming law, each city and town is required to prepare and adopt a budget for each fiscal year.

Cities or Towns Having Population Less Than 4,000

Any incorporated city or town that has a population of less than 4,000 inhabitants must prepare its budget in a format acceptable to the director of the Wyoming Department of Audit (W.S. 16-4-104(g) and W.S. 9-1-507). This provision also applies to incorporated towns not subject to the Uniform Municipal Fiscal Procedures Act (W.S. 16-4-125).

Within the last quarter of each fiscal year, the governing body must pass an annual appropriation ordinance for the next fiscal year – the fiscal year begins on July 1 in each year. The ordinance must specify the objects and purposes for which the appropriations are made and the amount appropriated for each object or purpose. No further appropriations can be made except as provided in (W.S. 16-4-112 through 16-4-114 and W.S. 15-2-201).

Prior to adoption of the budget, the governing body must determine the amount of general taxes necessary to provide for the current expenses of the town and determine the amount of any special tax or assessment levies. After the governing body has passed an ordinance fixing the amount of taxes necessary, the municipal clerk under the supervision of the mayor must certify the amount of money to be collected to the county clerk (W.S. 15-2-201(b)(c)).

Cities and Towns Having Population Over 4,000

Unless changed by charter ordinance, any incorporated first class cities or towns that have a population of more than 4,000 inhabitants and all city manager cities must comply with the provisions of the Uniform Municipal Fiscal Procedures Act (W.S. 16-4-101) through (W.S. 16-4-125) when preparing the municipal budget for each fiscal year. Fiscal years run from July 1 to the following June 30 and the budget may be in the form of an ordinance or resolution (W.S. 16-4-102(a)(x), 16-4-111 and 16-4-125).

In general, the Act provides that:

1. All department officials must submit their budget requests to the budget officer on or before May 1 of each year. An official is defined as a person appointed by the governing body (W.S. 16-4-104(a)). The budget officer must prepare a tentative budget for each fund and file it with the governing body no later than May 15 of each year, except as provided in W.S. 16-4-104(h) which allows a two year budget cycle. Each proposed and adopted budget shall be accompanied by a budget message in explanation of the budget. The budget message shall contain an outline of the proposed financial policies for the budget year and describe in connection therewith the important features of the budget plan. It shall also state the reasons for changes from the previous year in appropriation and revenue items and explain any major

changes in financial policy. A summary of the proposed budget shall be entered into the minutes and the governing body shall publish the summary at least one week before the hearing date (i.e. budget public hearing date) in a newspaper having general circulation in which the municipality is located, if there is one, otherwise by posting the notice in three conspicuous places within the municipality. Public hearing for the city and town budgets will be scheduled not later than the third Tuesday in June (16-4-109(b)) and will be held at a time of day chosen by the governing body. Copies of publications of hearings shall be furnished to the director of the state department of audit, excluding incorporated towns not subject to the Uniform Municipal Fiscal Procedures Act;

2. The budget must be in a format that best serves the needs of the municipality (W.S. 16-4-104). The proposed budget shall set forth:
 - a. Actual revenues and expenditures in the last completed budget year;
 - b. Estimated total revenues and expenditures for the current budget year;
 - c. The estimated available revenues and expenditures for the ensuing budget year;
3. That the provisions of W.S. 16-4-105 and 106 must be followed concerning accumulated retained earnings, fund surplus and capital improvements reserve, and property tax levy;
4. The tentative budget for the city or town must be reviewed by the governing body in a regular meeting or in a special meeting called for this purpose. After holding a public hearing, the governing body must adopt a budget (W.S. 16-4-104(e)) within 24 hours of the conclusion of the public hearing under W.S. 16-4-109(b);
5. No appropriation in the final budget of any fund can be in excess of the estimated expendable revenue of the fund for the budget year (W.S. 16-4-110);
6. A copy of the budget, certified by the budget officer, must be furnished to the county commissioners on or before July 31 by all governmental entities subject to the Uniform Municipal Fiscal Procedures Act and on or before the fourth Monday in May by incorporated cities and towns under four thousand (4,000) inhabitants (W.S. 39-13-104 and W.S. 16-4-111);
7. The budget can be amended by the governing body adopting a resolution (W.S. 16-4-112 and W.S.16-4-113); and
8. If the governing body finds that an emergency exists which requires an expenditure in excess of the general fund budget, it can make the expenditures from revenues available under W.S. 16-4-105(a)(ii) as reasonably necessary to meet the emergency. Notice of the declaration of emergency must be published in a newspaper of general circulation in the municipality (W.S. 16-4-114).

Biennial Municipal Budgeting

Pursuant to W.S. 16-4-104(h) any city or town may employ a two year budget cycle. The two-year period will begin with the city's/town's first fiscal year following a budget session of the state legislature. For the second year of the budget cycle, the budget officer must prepare a budget adjustment that includes the original budget and any proposed changes in revenues and expenditures. The governing body must consider and adopt the second year budget adjustment according to the same procedure that was used for the original two year budget, including all public notices and hearings.

MISCELLANEOUS REQUIREMENTS

Towns under 4,000 population are to prepare financial reports for the governing body not less than quarterly (W.S. 15-2-203).

For towns over 4,000 population and cities, interim financial reports may be prepared (W.S. 16-4-119).

Minutes of the governing body meeting in which the budget was adopted must be submitted to the newspaper for publication no later than twelve days after the meeting (W.S. 15-1-110). A ordinance budget must be published either prior to or no later than July 1st for the budget to be effective on that date (W.S. 15-1-116).

The amount appropriated may not exceed the anticipated revenues for the year (W.S. 15-2-201 and W.S. 16-4-103).

The governing body must adopt a budget within 24 hours of the conclusion of the budget public hearing (W.S. 16-4-11)

TIP: WAM produces a Budget Preparation Handbook to assist municipal budget officials. Contact the WAM office for more information. WAM contact info: 315 West 27th St., Cheyenne, WY 82001; Telephone (307) 632-0398; website www.wyomuni.org

AUDITING

Cities and Towns Having Population Over 4,000

Requirements

At the end of each fiscal year, the governing body must, at its own expense, have a complete audit of the financial affairs and transactions of all funds and activities of the municipality made by an independent auditor in accordance with generally accepted auditing standards as published by the American Institute of Certified Public Accountants (AICPA) in their guidelines for audits of state and local government units. The audit procedures must be performed in accordance with

“Government Auditing Standards”, issued by the comptroller general of the United States. The audits must be financial and legal compliance audits (W.S. 16-4-102(a)(ix) and 16-4-121)(c)). Audits performed shall comply with the requirements of W.S. 9-1-507.

Audits must be completed within six months after the end of the fiscal year being audited. If a copy of the audit report has not been received by the director of the state department of audit within seven months after the end of the fiscal year, the state audit director must check with the municipality. If the annual audit has not been started, the state auditor, in writing, must demand that the municipality commence the audit within 30 days. If the annual audit report is not filed with the state audit director within nine months after the end of the fiscal year, the state auditor must contract with an independent auditor to conduct the audit. The independent auditor is paid by state funds withheld from the municipality, the state audit director can require the city (town) to pay the audit expenses from any funds available and certify the amount to be collected to the attorney general for legal proceedings (W.S. 16-4-121(e)).

Contents of Audits

The audit reports must conform to generally accepted accounting principles. Copies of all audit reports must be filed with the state audit director and with the appropriate county clerk who must preserve them and make them available for inspection by any interested person (W.S. 16-4-122).

Duties of State Audit Director

All audit reports are monitored and may be examined by the state auditor to determine if there has been compliance with provisions of the Uniform Fiscal Procedures Act. If there are any deficiencies, the state audit director must notify the municipality and its auditor. If the deficiencies are not corrected within 90 days from the date of the statement of deficiencies or within twelve months after the end of the fiscal year of the city (town), whichever is later, the state audit director proceeds in the same manner as though no report had been filed.

If the examination of any audit report indicates that state law has been violated, the state audit director, after investigation, must consult with the attorney general. If, after such investigation, and consultation, there is a reason to believe that any person has violated the law, the state audit director must certify the facts to the attorney general who must take appropriate action.

If it appears that an auditor has knowingly issued an audit report containing any false or misleading statement, the state audit director must report the matter in writing to the city (town) and to the Wyoming Board of Certified Public Accountants.

Any member of the governing body or any member, officers, employee or agent of the city (town) who knowingly and willfully fails to perform any duties imposed on him/her by the Uniform Municipal Fiscal Procedures Act, or who knowingly and willfully violates any of the Act’s provisions, or who knowingly and willfully furnishes false or fraudulent information to the auditor is guilty of malfeasance. Upon conviction thereof, the court shall order the removal of such person from office or employment and notify the municipality so that the vacancy can be filled.

The state audit director must report willful violations of this Act by any officer of the city (town) to the Attorney General for appropriate criminal and civil proceedings (W.S. 16-4-123).

Cities and Towns Having A Population Under 4,000

Department of Audit

The director of the State Department of Audit may perform an audit or specified procedures on books and records on any municipality not receiving loans or grants from the State Land and Investment Board whenever the director feels it is necessary. As an alternate, the director may choose to accept an audit or specified procedures performed by a certified public accountant. Review W.S. 9-1-507 for specific reporting requirements.

Contact the State Auditor's Office for additional information on public funds and financial control reporting at telephone (307) 777-7831; website <http://sao.wyo.gov>.

TIP: W.S. 16-4-121 provides that at the option of the governing body, audits may be made at more frequent intervals.

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CHAPTER 7

MUNICIPAL REVENUES

Revenue Authority

Cities and towns have virtually no local decision making authority when it comes to taxes and fees. The Wyoming Constitution gives that power to the Legislature.

“The legislature shall restrict the powers of such (municipal) corporations to levy taxes and assessments, to borrow money and contract debts so as to prevent abuse of such power, and no tax or assessment shall be levied or collected on debts contracted by municipal corporations except in pursuance of law for public purposes specified by law.” (Wyoming Constitution Article 13, §3)

The Legislature has given some revenue-raising authority to municipalities, such as utility charges, but the bulk of general fund revenues, such as severance tax, mineral royalties, and sales and use tax, are closely controlled by the Legislature and administered by State government.

This section describes the following taxes and fees that cities and towns can impose to raise revenues or are a part of state shared revenues for general fund purposes. Statutory references are provided wherever applicable to assist you in gaining greater detail on any particular revenue source.

FRANCHISES

Franchise Authority and Fees

Franchises are required for any firm, utility, or user of a municipal public right-of-way including streets, alleys, and easements. This includes underground and above ground facilities. Any city or town can levy a franchise fee on any utility company doing business within the municipality (W.S.15-1-103(a)(xxxiii)). A franchise is a “rent” for the use of a public right-of-way. As such it is not a tax. In addition, the Wyoming Constitution allows municipalities to franchise telephone companies (Wyoming Constitution Article 13, Section 4). Although state law does not specify an amount, this fee has been either a flat annual fee or a percent of gross revenues. This is subject to change to another basis due to competition in the utility services industries. The Wyoming Public Service Commission (PSC) determines the percentage of gross revenues to be considered as a general cost of doing business which allows the franchise to assess this cost against all of the customers that it serves. The PSC cannot put a maximum on a franchise fee but that portion of the franchise fee that exceeds one percent (1%) of gross revenues is treated by the PSC as a local tax. The recouping of this cost may only be achieved through a local utility charge which appears as a separate charge on the utility bills of customers who reside within the corporate limits of the city or town in which the utility is based. However, the PSC is now authorizing more and more companies to put 100% of the franchise fee on the utility bill and call it a “local tax”.

In addition to W.S. 15-103(a)(xxxiii)(A), (B) and (C), W.S. 15-103(b) and (c) provides additional information on the governing body's authority relating to franchise agreements.

TIP: *The statutes referenced above allow municipalities to grant non-exclusive franchises to any utility company that furnishes gas or electricity. Refer to Chapter 12, Utilities, of this Handbook for additional information.*

Franchises For Telecommunication Systems

The Telecommunications Act of 1996 made major changes in the regulation of telecommunications. The Act affects municipal franchising authority. WAM monitors any proposed changes to the Act and informs WAM members of any proposed changes or needed action. W.S. 37-15-101 through 37-15-502 provides information on the Wyoming Telecommunications Act.

W.S. 37-15-413 outlines limitations on the authority of political subdivisions to enter into exclusive agreements for provision of telecommunications service; provides exceptions; requires a public hearing, and specifies a formal complaint process governed by the Wyoming Administrative Procedure Act, W.S. 16-3-101, *et seq.* This statute lists requirements for compliance by the governing body of a city, town, or other political subdivision that provide for the construction, maintenance or operation of any telecommunications service when entering into an exclusive franchise, partnership, joint venture, contract, resale agreement or any other exclusive agreement with any party regarding telecommunications service to the city, town or political subdivision.

Franchises For Waterworks Systems

The governing body of any city or town can by ordinance grant to any Wyoming corporation organized for this purpose the right to construct, maintain, and operate a waterworks system within the city (town) limits subject to the control and supervision of the governing body. In general:

1. Any franchise granted cannot be for more than twenty years at any one time;
2. Any contract made with such corporation for water for municipal purposes cannot exceed ten years;
3. All water rates within the city (town) must be reviewed by the governing body and, if necessary, amended or revised so that such charges are not oppressive or unreasonable. Once fixed, the governing body cannot revise them more than once every two years unless the corporation agrees;
4. The franchise must expressly give the city (town) the right to purchase the waterworks and franchise within twenty years from the franchise date upon reasonable terms agreed to by the parties (W.S.15-7-701 through W.S.15-7-708).

Franchises For Natural Gas Companies

W.S. 15-1-103 (a)(xxxiii) authorizes the governing body to grant franchises for such terms as the governing body deems proper to any utility (such as natural gas companies) company, provided that no franchise may be entered into with any person in which that person is given an exclusive right for any purpose whatsoever. In addition, the governing body may also grant the utility company the privilege to install and maintain necessary installations under or over any streets, alleys or avenues. This section of statute also sets forth the following:

Upon renewal or initial grant or renewal after condemnation of a franchise, the governing body may provide in the franchise that the franchisee shall furnish a gas distribution system through which any supplier, including the franchisee, may sell and distribute natural gas, pursuant to W.S. 15-1-103 (b), to any person served by the distribution system, provided that before the city or town can implement, the question of whether or not to do so shall be submitted to and approved by a majority of the electors of the city or town voting on the question at a one-time election called for that purpose. The franchisee shall specify who is responsible for delivery of the natural gas. Charges and quality standards are regulated by the Public Service Commission. The city or town or its authorized agent will negotiate the terms and conditions for the supply of natural gas.

If any provision in a gas purchase contract contains or creates an indefinite escalator clause, otherwise known as a “favored nation treaty” provision, it is contrary to the public policy of the state and is void and unenforceable. Refer to W.S. 15-1-103 (c) for more information.

TIP: Franchises involve highly technical and detailed provisions of state statutes and, specifically for telecommunications franchises, federal law and should be reviewed carefully with city/town legal counsel.

MISCELLANEOUS REVENUES

License Tax

Any city or town can license, tax and regulate any business conducted or trafficked within the city or town limits (unless prohibited by state law) for the purpose of raising revenue. Any license taxes imposed must be uniform in respect to the class of business upon which imposed (W.S 15-1-103(a)(xiii)).

Miscellaneous Licenses

In addition to information on licensing contained in W.S. 15-1-103(a), Title 33 of Wyoming Statutes contains provisions relating to local licenses and fees involving carnivals and circuses (a/k/a exhibitions). The title also provides provisions relating to pawnbrokers, junk dealers, and temporary or transient merchants.

Property Tax

In its annual budget, each city and town must certify to the County Clerk the amount of general (property) tax revenues that it will need for the operation and maintenance of the municipality for the coming fiscal year (W.S. 15-2-201(c) (towns) and W.S. 16-4-106). Except for the payment of its public debt and interest thereon, the tax levy of a city (town) is limited to eight mills (Article 15, Section 6 of the Wyoming Constitution). The property tax is levied by the county which remits each municipality's share to it.

Motor Vehicle Registration Fees

Motor vehicle registration fees are treated in a manner similar to property taxes, and therefore are a significant source of municipal revenue, based on vehicles that are sited in municipalities. These funds are collected and distributed by the county treasurer (W.S. 31-3-103(b)).

Downtown Development Authority (DDA) Property Tax; Tax Increment Financing (TIF)

Creation of a Downtown Development Authority (DDA); provisions pertaining to its authority; tax increment financing, and the governing body's involvement are contained in W.S. 15-9-201 through 15-9-223. The governing body approves the DDA's annual fiscal year budget and the DDA's plan of development, including any modifications (W.S. 15-9-208 and 15-9-218).

TIP: *If the governing body creates a DDA, before assuming the duties of the office, each appointed board member shall take and subscribe to an oath of office. The board is authorized to employ a director, who must also take an oath of office before entering upon their duties. No member of the board is eligible to hold the position of director.*

County Weed and Pest Districts

The Wyoming Weed and Pest Act provides for the establishment of county weed and pest control districts for the purpose of controlling designated weeds and pests. Funding through the district may benefit or financially assist cities/towns. For more information, refer to W.S. 11-5-101 through 11-5-119.

Other Locally Collected Revenue

There are a wide range of use fees, administrative fees, and license fees which may be charged by municipalities.

COMMON MUNICIPAL FEES:

Administrative Fees (refer to provisions contained in W.S. 16-4-201 through 205, Public Records Act):

- Electronic copies (refer to Chapter 4 of this Handbook)
- Filing fees for municipal political candidates
- Photocopies

- Processing fee for billing services
- Sales of abandoned property
- Sale of surplus property
- Special improvement administration fee

Business Licenses:

- Amusement devices
- Body Art businesses; artists
- Building Contractors/Trades
- Carnivals and Circuses
- Food services; restaurants
- General business license
- Junk dealers / Secondhand dealers
- Massage businesses; therapists
- Pawnbrokers
- Private security or detective services
- Service stations
- Solicitors
- Towing services
- Transient and temporary merchants
- Tree trimmers

Permits and Fees:

- Advisory inspections or on-site reviews
- Alarm systems
- Building permits
- Charges for certain codes, plans and specifications
- Construction trailer permit
- Curb cut permits
- Demolition (building) permits
- Electrical permits
- Encroachment (R-O-W) permits
- Established grades for curbs and roads, etc.
- Finding property pins
- Moving of buildings
- Plan reviews
- Plumbing permits
- Pre-development conferences
- Project licenses for out-of-town contractors
- Sale of maps and reproductions
- Septic tank permits
- Sidewalk repair permits
- Sign permits
- Traffic control permit
- Water Taps

Parks and Recreation:

- Athletic leagues
- Camping fees
- Charges for recreation classes
- Concession rentals
- Electricity for baseball fields
- Golf course green fees
- Metered lighting for tennis courts
- Museum admission
- Park use fees for large gatherings
- Rent of facilities and equipment
- Special events
- Swimming pool fees
- Tournament entry fees

Cemetery Fees:

- Burial lot (space) fee
- Burial or Right of Inurnment permits
- Cemetery burial space locates
- Certificates of ownership; transfers of ownership
- Gravesite city/town services (tents, chairs)
- Opening and closing fees
- Perpetual care fee

Animal Shelter/Control:

- Adoption fees
- Boarding fees
- Licensing fees

Transportation:

- Airport landing fees
- Business curb loading/unloading permits
- Concession agreements at airport
- Lease fees at airport
- Parking meters/spaces
- Street cleaning after special events
- Taxicab loading/unloading permits

Health:

- Ambulance service
- First aid and CPR charges

Development and Growth Costs:

- Constructing curbs, gutters and sidewalks
- Constructing streets
- Cost to inspect a developer's work
- Dedicating all necessary rights-of-way and easements

- Engineering cost
- Installing sewer lines
- Installing water lines and hydrants
- Providing drainage
- Street lighting
- Street signs
- Survey monuments and surveys of property

Other:

- Annexation fees
- Construction fee
- Fire fees (permits, inspections, etc.)
- Health services
- Libraries
- Maintenance facilities and storm drainage fees
- Park land fee or payment in lieu
- Police fees (officer presence at events, alarm permits and response fees, off-duty security services, inspections, etc.)
- Solid waste system fee
- Transportation fee
- Water right deeds or payment in lieu
- Water system fee

STATE SHARED REVENUES

Cigarette Tax

State government administers this tax. Local communities cannot impose their own tax. W.S. 39-18-101 through 39-18-111 outlines the imposition, tax rate, exemptions and distribution formula of the tax share available to cities and towns.

Fuel Tax

State government administers these taxes. Local government cannot impose their own tax on the sale of fuels. W.S. 39-17-101 through 39-17-311 outlines the imposition, tax rate, exemptions and distribution formula of the tax share available to cities and towns involving gasoline, diesel fuel and alternative fuel taxes.

With regard to the alternative fuel tax, separate taxing provisions exist for pure methanol, ethanol and other alcohols, blends of eighty-five percent (85%) of more of alcohol with gasoline, natural gas, liquid fuels produced from natural gas, liquefied petroleum gas or propane, coal-derived liquid fuels, hydrogen, electricity, pure biodiesel (B100), fuels other than alcohol which are derived from biological materials, renewable diesel and P-Series fuels. The assessment and distribution rates and ratios are also directed (W.S. 39-17-304 and 39-17-311).

Sales Tax

Sales tax is generally considered as the type of tax imposed upon sales made within the state or county. The basic uniform sales tax rate in the state is four percent (4%). W.S. 39-15-101 through 39-15-111 outlines the imposition, tax rate, exemptions and distribution formula of the tax share available to cities and towns.

General Purpose County Option Sales Tax; Economic Development Tax

In addition to the general uniform sales tax rate set by the state, Wyoming counties have the ability to impose, by special election, certain sales tax as authorized by and pursuant to procedures outlined in W.S. 39-15-201 through 39-15-211. Revenue collection less a one percent State administration cost is distributed to each incorporated city, town and the county government, on the basis of population, in the same manner as the general State sales tax is distributed. The tax shall not be imposed until the proposition to impose the tax is submitted to a vote of the qualified electors of the county and a majority of those casting their ballot votes in favor of imposing the tax. Once instituted the tax may be continued by election and voter approval every four years, or as provided in W.S. 39-15-203 (a)(i)(F).

Pursuant to W.S. 39-15-204(a), in addition to the state tax imposed any county may impose the following excise taxes and *any city or town may impose the tax authorized by paragraph 2 below* and any resort district may impose the tax authorized by paragraph 5 below:

1. An excise tax at a rate in increments of one-half of one percent (.05%) not to exceed a rate of two percent (2%) upon retail sales of tangible personal property, admissions and services made within the county, the purpose of which is for general revenue (commonly referred to as the optional 5th penny tax);
2. An excise tax at a rate in increments of one percent (1%) not to exceed a rate of two percent (2%) upon the sales price paid for lodging services as defined under W.S. 39-15-101(a)(i), the primary purpose of which is for local travel and tourism promotions (commonly referred to as the lodging tax);
3. An excise tax not to exceed two percent (2%) upon retail sales of tangible personal property, admissions and services made within the county. The total excise tax imposed within any county shall not exceed two percent (2%). The revenue from the tax shall be used in a specified amount for specific purposes authorized by the qualified electors. Specific purposes shall not include ordinary operations of local government except those operations related to a specific project (commonly referred to as the optional 6th penny tax);
4. In no event shall the total excise tax imposed within any county under the provisions of paragraphs (i), (iii) and (vi) exceed three percent (3%).
5. An excise tax at a rate in increments of one-half of one percent (.5%) not to exceed a rate of three percent (3%) upon retail sales of tangible personal property, admissions and services made within any resort district by vendors physically situated within the district, the purpose of which is for general revenue for the resort district;

6. An excise tax at a rate in increments of one-quarter of one percent (.25%) not to exceed a rate of one percent (1%) upon retail sales of tangible personal property, admissions and services made within the county, the purpose of which is for economic development.
7. An excise tax at a rate in increments of one-quarter of one percent (.25%) not to exceed a rate of one percent (1%) upon retail sales of tangible personal property, admissions and services made within the city or town, the purpose of which is for general revenue or for a specific purpose in a specified amount as provided in the proposition to impose the tax.

Additional Information – Local Option Specific Purpose Tax

Revenue from a specific purpose sales and use tax can only be used in a specific amount for specific purposes authorized by the qualified electors. Specific purpose shall not include ordinary operations of local government except those operations related to a specific project. The authority to impose this tax may be exercised independently of whether or not the county has levied a general purpose local option sales tax. The tax cannot be imposed until the proposition to impose the tax and approve the debt, or fund a specific project(s) is approved by a vote of the majority of the qualified electors voting on the proposition. If taxes collected exceed the amount needed for the approved project(s), excess funds shall be retained by the county treasurer for one (1) year for refund of overpayments of the tax imposed upon order of the State Department of (W.S. 39-15-211(b)).

The term “specific purpose” also includes on (1) time major maintenance, renovation or reconstruction of a specifically defined section of a public roadway.

Optional Lodging Tax

The optional tax on lodging services authorized by W.S. 39-15-203(a)(ii) and W.S. 39-15-204(a)(ii) is in addition to and not in lieu of the one percent optional sales tax, or the addition of the local option specific purpose sales tax mentioned above. The tax may be imposed county-wide or by any city or town, and the primary purpose of the tax is for local travel and tourism promotion. Lodging service (W.S. 39-15-101(a)(i)) means the provision of sleeping accommodations to transient guests and shall include the providing of sites for the placement of tents, campers, trailers, mobile homes or other mobile sleeping accommodations for transient guests. The term “transient guest” means a guest who remains for less than thirty (30) continuous days. There are strict limitations on the use of tax proceeds, providing that at least ninety percent of the amount distributed must be used to promote travel and tourism.

The tax cannot be imposed until a proposition is submitted to a vote of the qualified electors of the county, or of a city or town if the proposition is to impose the tax only city or town wide, and a majority of those casting their ballots vote in favor of imposing the tax. W.S. 39-15-203 (a)(ii) sets forth the provisions for imposing the lodging tax. If the tax is approved, voters must approve continuation of the tax at subsequent general elections pursuant to statutory provisions.

Local Use Tax

Use tax is generally considered a compliment to the sales tax and is the type of tax imposed

upon purchases of tangible personal property made outside a Wyoming taxing jurisdiction for use, storage or other consumption inside a Wyoming taxing jurisdiction. For these purposes, Wyoming taxing jurisdictions are considered to be the State of Wyoming and/or each Wyoming county. Use tax rates are set by the state. W.S. 39-16-201 through 211 contains provisions on Local Use Tax.

Impact Assistance Payments

W.S. 35-12-101 through 35-12-119 contains provisions pertaining to the Industrial Development Information and Siting Act and impact assistance. W.S. 39-15-111(c) provides information on distribution of sales tax applicable to impact assistance payments.

Impact assistance payments are paid by the State Treasurer following the commencement of an industrial facility as defined in W.S. 35-12-102(a)(vii), under a permit issued pursuant to W.S. 35-12-106. Applications submitted by an industrial facility for a permit, or a request for a waiver of a permit, must include certification that the governing bodies of all local governments within the potentially impacted area were provided notification, a description of the proposed project and an opportunity to ask the applicant questions at least thirty (30) days prior to submission of the application. The State Department of Environmental Quality, to the extent possible and at the request of local governments, may provide technical assistance to local governments in the preparation of anticipated impacts related to a proposed project and negotiation of agreements with permit applicants.

Impact assistance payments are distributed by the department of revenue in an amount and on a schedule determined by the industrial siting council, based on evidence presented at the hearing. The impact assistance payments are limited to two and seventy-six hundredths percent (2.76%) of the total estimated material costs of the facility which is the subject of the hearing. The ratio of distribution of the impact assistance payments within a county is determined by the industrial siting council during the public hearing. The industrial siting council is required to review the distribution ratio for construction projects on a regular basis and make appropriate adjustments. A government body which is primarily affected by the facility, or any person issued a permit pursuant to W.S. 35-1-106, may petition the industrial siting council for review and adjustment of the distribution ratio or the amount of the impact assistance payment upon a showing of good cause.

Severance Tax

Severance taxes are imposed on the production of minerals at several different rates. Cities and towns receive 9.25% of a severance tax distribution account which is limited to a total \$155,000,000. Distribution is made quarterly in the ratio that the population that each municipality bears to the total population of all Wyoming municipalities. If a city has five percent of the total incorporated population, it receives five percent of the severance taxes allocated to cities and towns (W.S. 39-14-801).

Since the state operates on an accrual accounting system the amount distributed is based on estimates made by the Consensus Revenue Estimating Group (CREG). The estimate made in January of each year is used by the WAM to develop the values listed in the Budget Preparation Handbook published by WAM each year. An additional estimate is made by the CREG in October of each year, or more frequently at the request of the Governor.

Mineral Royalties

The federal government collects a royalty on minerals produced on federal lands, a portion of which is returned to the state. Cities and towns receive 9.375% of a mineral royalty distribution account which is limited to a total \$198,000,000. Distribution is as follows:

First each town having a population of less than 325 receives a base amount of \$12,000. Cities and towns over 325 population receive a base amount of \$15,000. The remaining amount, after the base amount is subtracted out, is distributed to each county based on the ratio of the school average daily membership (ADM) to the total state. Each municipality within the county receives an allocation based on the ratio of the population of the municipality to the total incorporated population of the county. This amount and the base (either \$12,000 or \$15,000) are added together as the total distribution for each municipality.

Other State and County Collected Revenues

1. Cigarette tax
2. Vehicle registration tax
3. WYDOT Assistance
4. Wyoming Lottery (W.S. 9-17-101 through 9-17-128)
5. Historic pari-mutuel off-track horse racing (applicable only pursuant to W.S. 11-25-105)

TIP: W.S. 24-2-111 contains provisions regarding cooperation between the state transportation commission and cities/towns in the construction of public streets and highways, including bridges and culverts, but excepting bypass routes, and storm sewers if the streets or highways constitute direct connections between established state highways. Notwithstanding any other provision of law, the transportation commission may contribute financial assistance to any city or town with a population between 1,500 and 5,000 that is responsible for the cleaning, sweeping and washing of, and snow removal from the streets and highways applicable to this statute.

Supplemental Funding by Appropriations

Starting with the 2004 Budget Session, the Legislature has appropriated additional funding for cities, towns, and counties. Approval for any additional funding (referred to as “over the cap” funds) is contingent upon approval by the state legislature.

SPECIAL CONSIDERATIONS

Annexation

If your municipality annexes territory, the Census Bureau will determine the population of the annexed area and add it to your certification to the State for distribution of state shared revenues. If you undertake a special census update it may not be eligible for changes in your revenues. This should be determined before you go to the expense of a census.

Whenever you annex territory, you should check procedures for notifying the State Revenue Department for additional revenues based on the population annexed into the municipality. WAM will assist you in estimating the amounts you might expect to receive. The initial contact with the U.S. Census Bureau for state notification can be through the Economic Analysis group within the State of Wyoming Department of Administration and Information.

TIP: Other revenue sources that may be available to local government include the opportunity to receive grants and loans through Federal and State sources and programs, such as the Wyoming Business Council, Wyoming Department of Transportation, Wyoming Water Commission and the State Loan and Investment Board (SLIB).

CHAPTER 8

PURCHASING

General Guidelines

There are no specific statutory purchasing statutes for towns under 4,000 in population. However, information provided for larger towns will be helpful in setting up good purchasing practices. In cities and towns of more than 4,000 inhabitants, all purchases and encumbrances must be made only upon an order or approval of the person authorized to do so unless the purchase or encumbrance was directly investigated, reported, and approved by the governing body (W.S. 16-4-107). Nor shall any officer or employee make any expenditure or encumbrance which is more than the total appropriation for the department concerned (W.S. 16-4-108).

Except for cities and towns operating under the city manager form of government -- in which case the city manager is the purchasing agent for the city (town) (W.S.15-4-203(a)(v)) -- the statutes do not prescribe who shall handle the purchasing function. Nor do the statutes, other than for the procedures to be followed in the awarding of certain contracts, require that any particular purchasing practices be followed.

Objectives of Purchasing

Cities and towns are charged with providing needed and desired programs and services to their citizens in an effective and efficient manner. Good purchasing practices contribute to the attainment of this goal by seeing to it that the municipality has the right goods and services to carry out its programs and services when they are needed, and that they have been procured at a proper price. The following generally accepted good purchasing practices can help achieve the goal of obtaining the best materials and services in the most efficient and economical way:

1. With possibly a few exceptions, all purchasing should be centralized in a single office. This avoids the cost and expenses of multiple purchases of the same supplies and equipment and makes it possible for further savings to be realized through quantity buying;
2. The cost and expenses of multiple purchasing can be reduced and the possible savings resulting from quantity buying can be increased if the city (town) enters into cooperative purchasing agreements with other units of government;
3. Standards and specifications must be established for goods and materials being purchased;
4. Adequate inventory controls must be established and maintained;
5. The disposition or salvage of surplus or worn out goods and equipment must be controlled;
6. Competition among suppliers must be fostered; and
7. Centralized purchasing makes it easier to have a purchasing agent who knows his/her job.

Organization of Purchasing Function

As indicated in the foregoing discussion, purchasing generally should be centralized in one office. This office or department should be organized in such a manner that all aspects of the purchasing function are covered. After consulting with those for whom purchases will be made, policies and procedures which clearly state the duties and responsibilities of the purchasing office (department) and the procedures it will follow in carrying out its duties and responsibilities should be promulgated. Duties commonly delegated to purchasing include:

1. Obtaining prices;
2. Selecting suppliers;
3. Recommending award of bids;
4. Following up on delivery promises;
5. Receiving and warehousing;
6. Selecting and training of personnel for purchasing;
7. Supplier relations;
8. Establishing standards and specifications for goods and materials being purchased; and
9. Obtaining technical information and advice.

Essential Forms

The following forms are helpful in organizing and setting up the purchasing function:

1. Purchase requisition. This is the buyer's authority for purchasing the listed items. They originate in the various departments and are approved by the department director that usually is authorized to approve expenditures up to a set amount. They state the general characteristics of the item or services desired, the quantity desired, and a general statement of the quality. If brand names are used to describe the items, they ordinarily must be followed by the words "or equivalent". If the purchasing officer makes any change in the specifications, quantity, or terms of delivery before issuing the purchase order, the user must be notified.
2. Purchase order. This is a contractual instrument and has important legal effects as to the rights and obligations of the purchaser. As an offer to buy, it should clearly state the quantity and quality of the items to be purchased, and other important terms. In addition, it serves certain internal functions for accounting, etc.
3. Purchase order correction. This document is used to revise a purchase order after it has been entered or issued.

4. Receiving report (receipt, inspection, acceptance or rejection of delivery). The agency receiving delivery of the equipment, material, and/or services has the responsibility of inspecting and determining that the items or services rendered meet the requirements of the purchase order or contract. If the delivery or performance does not conform to that specified in the purchase order or contract, the purchasing office must be notified immediately. The purchasing office will notify the supplier that the delivery or performance has been rejected and ask the supplier to remedy the defect. If the supplier fails to comply, the purchasing office may pursue measures to void the purchase. The receiving report is evidence that the ordered items have been received and that they conform to the contract (if such is the case). Hence, the receiving report is the authorization for paying the supplier.

Municipal Bidding Requirements

All contracts for any type of public improvement, excluding contracts for professional services or where the primary purpose is emergency work or maintenance, for any city or town or joint powers board wherein at least one member is a municipality shall be advertised for bid or for response if a request for proposal or qualification for construction manager agent, construction manager at risk or design-builder is used, if the estimated cost, including all related costs, exceeds a bid threshold of \$75,000.00. Contracts for the purchase or lease of a new automobile or truck must be advertised regardless of cost and if there is an automobile or truck for trade-in, it must be included as part of the advertisement and bid. The advertisement for bids or responses must be published twice in a newspaper having general circulation in the city/town at least seven days apart. The published notice must state the place, date and time when the bids or proposals will be received and bids will be publicly opened and the place where interested persons may obtain complete specifications of work to be performed (W.S. 15-1-113(a)(b)).

If the contract is let for bid, the contract shall be let to the lowest bidder who shall be determined qualified and responsible in the sole discretion of the governing body. The governing body may use alternate design and construction delivery methods as defined under W.S. 16-6-701 if deemed appropriate. The governing body may reject all bids or responses submitted if it finds that none of them would serve the public interest. For contracts in excess of \$500,000.00, cities, towns and joint powers boards may prequalify contractors who wish to submit bids or responses based on such criteria as the project type and experience, expertise, professional qualifications, past performance, staff proposed, schedule proposed, financial strength, qualification of supervisors proposed to be used, technical solutions proposed or references (W.S. 15-1-113(c)).

Every contract must be executed by the mayor or, in his/her absence or disability, by the president or other presiding officer of the governing body and the city (town) clerk or designee of the governing body. The successful bidder or respondent must furnish the city, town, or joint powers board a bond as specified in the advertisement, or if the contract price is \$150,000.00 or less, any other form of financial guarantee satisfactory to the city, town or joint powers board. The bond or other form of financial guarantee must meet the requirements of W.S. 16-6-112 as noted in W.S.15-1-113(d).

TIP: *W.S. 15-1-113 also provides additional information on the bidding process; financial guarantee; retention and progress payments, and newspaper advertisement requirement (for contracts in which a bond or other financial guarantee is required) prior to final payment.*

If a contract is let by the city/town for the construction, major maintenance or renovation of any public building, or other public structure, or for making any addition thereto, or for any public work or improvements, the contract must be let, if advertisement for bids or request for proposal is not required, to a Wyoming resident contractor. An exclusion to this provision are contracts for professional services, construction management and design-build delivery negotiations by public entities and construction managers (W.S. 16-6-707). If advertisement for bids is required, the contract must be let to the responsible certified resident making the lowest bid if the resident's bid is not more than five percent (5%) higher than that of the lowest responsible nonresident bidder. A successful resident bidder shall not contract more than thirty percent (30%) of the work covered by his contract to nonresident contractors. W.S. 16-6-101 through W.S. 16-6-1001 contains statutory provisions relating to public buildings and public works and contracts; in-state contractor residence preference; accessibility by the handicapped to public buildings; bonds and partial payments, and alternate design and construction delivery methods.

A definition of "major maintenance" can be found at W.S. 16-6-101(a)(v). Presumably, if the project is not construction or major maintenance or renovation, then the competitive bidding and resident contractor statutes may not apply. The term "resident" has undergone significant legislative revision since the last update to this Handbook. Refer to the specifics of W.S. 16-6-101 to 16-6-107 for these changes.

Before advertising for bids for any work on the construction of public improvements, except as provided under W.S. 16-6-707 for alternate design and construction delivery methods, detailed plans and specifications shall be prepared together with an estimate of the probable cost, and a form of the proposed contract. Each bidder must include with the bid, a bid bond with sufficient surety, certified check, cashier's check or bank draft in an amount equal to five percent (5%) of the bid price which is payable to the city (town). If the successful bidder defaults, the bid bond, check or bank draft is forfeited to the city (town) as liquidated damages. Before making any final payment, the city (town) must give, not less than ten days, notice to all persons having claims for labor and material furnished to the contractor that they must present their claims to the city (town) prior to the date therein specified for payment to the contractor. This notice is published in a newspaper of general circulation in that locality (W.S.15-1-113 and W.S. 16-6-116).

In construction contracts, the city/town may not withhold more than ten percent (10%) of the contract price on the amount of work done during the month.

The withheld percentage must be retained in an account, in the name of the construction manager, construction manager at risk or design builder, which has been assigned to the city until the contract is completed. For contracts of more than \$25,000, the contractor may designate a depository other than the city to provide an agent for the custodial care and servicing of the

deposit placed with him pursuant to the act. The city should anticipate and arrange accordingly for payment of interest on all amounts withheld. (W.S.16-6-701 through W.S.16-6-708).

Resident Contractors, Preference; Alternate Design and Construction Delivery Methods

W.S. 16-6-101 through 16-6-708 contains requirements involving the bidding or request for proposal process, and provisions for utilizing resident contractors as a preference.

A governing body may use alternative design and construction delivery methods as defined by W.S. 16-6-701 if deemed appropriate. Allowable alternates include construction manager agent, construction manager at-risk, and design-build. All of these alternate methods involve the project owner determining the scope and general objectives of the project and then soliciting qualifications and proposals from contractors. The contractor is selected based on qualifications, experience, and the content of the proposal (W.S. 16-6-701 through 16-6-708).

See W.S. 16-6-1001 for “preferences” for furniture, fixtures and equipment (FFE) and bidding “equivalent” equipment or FFE.

W.S. 16-6-105 also requires a five percent (5%) materials preference for Wyoming materials to be applied in public purchases of a municipality. “Materials” is specifically defined to mean supplies, material, agriculture products, equipment, machinery and provisions to be used in the construction, major maintenance, and renovation, regular maintenance and upkeep of their respective public institutions.

Conflict of Interest

No qualified member of the governing body or any member of their immediate family may receive any monetary or other economic benefit from any contract to which the city (town) is a party (W.S. 15-1-127).

An exception is made where the person interested in the contract is a member of the governing body or his/her immediate family and such interested member of the governing body makes the nature and extent of his interest known to the other members before they consider the matter; does not in any way attempt to influence the other members of the governing body; does not in any way participate in the consideration, discussion, and vote on the contract, is not present during such consideration, discussion, and vote; and does not in any way act for the governing body in regard to such contract (W.S.15-1-127(b)).

The governing body, by ordinance, shall prescribe requirements concerning conflicts of interest by any employee and any member of his/her immediate family and procedures by which any employee and any member of his/her immediate family may be exempt from the requirements (W.S. 15-1-127(c)).

W.S. 16-6-118 also contains conflict of interest provisions that should be reviewed.

CHAPTER 9

SALE OR TRADE OF PUBLIC PROPERTY

Sale or Trade of Public Property

Before a city or town can sell any of its real or personal property which has a value of \$500 or more, it must declare the item as surplus and publish an advertisement of the intended sale once each week for three consecutive weeks in a newspaper having general circulation in the community. The advertisement must describe the property, the terms of the sale, announce a public auction or call for sealed bids for purchase of the property. While all bids can be rejected, the property, if sold, must be conveyed to the highest responsible bidder--responsibility of the bidders is determined by the governing body (W.S. 15-1-112(a)). Real property can be sold without advertising the sale or calling for bids, after a public hearing (with notice of the hearing including the appraised value of the real properties involved) if the city (town), upon terms the governing body determines, sells the property to the state, or to any of its agencies or instrumentalities or the federal government if authorized to hold property in its own name; political subdivisions of the state, or to any person acquiring the property for a use which the governing body determines will benefit the economic development of the municipality.

The city (town) can trade any real property for any other real property after a public hearing. The notice will include the appraised value of all real property involved and is to be published at least once each week for three consecutive weeks in a newspaper of general circulation in the county in which the city or town is located (W.S.15-1-112).

The requirements of W.S.15-1-112(a) do not apply to any city or town trading in an automobile or truck on the purchase of a new automobile or truck (W.S.15-1-113(a)).

W.S. 15-1-112 also includes a provision that the city (town) may contract with an independent agent to sell individual parcels of land for development as reasonable cost housing alternatives for prospective homeowners, provided the parcels have not been previously developed beyond the installation of basic utilities and a foundation.

Sale or Vacation of Park Property

The city (town) can vacate from public use any property acquired or held and dedicated for park purposes if the city (town) has held title to it for more than ten years and if there has been no substantial use of it for park purposes, or if the property will be used for public school or public educational purposes after the vacation (W.S.15-1-103(a)(xii)).

The governing body shall hold a public hearing upon the proposal to vacate with a notice of the hearing published in a newspaper in the county that the city or town is located, for three consecutive weeks. If there is no newspaper published in that county, then the notice must be published in a newspaper published within Wyoming and of general circulation in that county. The notice will include the time, place, purpose of the hearing, the reason for the proposed vacation, and state that any person objecting to the proposed vacation is to file written objection

with the city (town) clerk at least 24 hours before the time of the hearing.

Any resident of the municipality, having filed their objections, may appear at the public hearing and protest the proposed vacation. Any other resident of the municipality may appear at the hearing and offer evidence in support of the proposed vacation. If the governing body finds the vacation of the property is in the best interest of the city (town) and its residents, it may order the vacation by ordinance. The record of the proceedings of the hearing, including findings of the governing body, must be made a part of the minutes of the regular or special governing body meeting at which the hearing was conducted.

Upon the passage of an ordinance vacating the property from public use, the city or town may dispose of the property in any manner provided by law (W.S.15-7-301 through W.S.15-7-305).

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CHAPTER 10

DEBT ISSUES

Introduction

Cities and towns may have to borrow money in order to meet the needs and desires of their inhabitants. This can be done either on an interim or short-term basis through the issuance of certificates of indebtedness, anticipation notes, and warrants which are not paid because of a lack of funds (W.S.15-1-103(a)(x)), or on a long-term basis through the issuance of bonds. This chapter discusses the limitations placed on municipal borrowings, the types of bonds which can be issued by cities and towns, and the duties of the municipal clerk and treasurer as they relate to bond issues (W.S.15-8-101).

Debt Limitations

Wyoming law limits the ability of cities and towns to go into debt by providing that:

1. Except for local improvements as provided by law no debt in excess of taxes for the current year can be created unless the proposition to do so has first been approved by a vote of the people (Wyoming Constitution Article 16, Section 4); and
2. The amount of debt that can be created is limited to four percent of the assessed valuation of the taxable property plus an additional four percent for the building and constructing of sewerage systems.

This limitation does not apply to debt incurred for the construction, establishing, extending, and maintaining of waterworks and supplying water for the municipality and its inhabitants (W.S.15-7-109, Article 16, Sections 4 and 5, of the Wyoming Constitution).

Types of Bonds Issued by Municipalities

Four types of bonds are or may be issued by Wyoming cities and towns. They are general obligation bonds, local improvement bonds, revenue bonds, and funding and refunding bonds.

General Obligation Bonds

Subject to the debt limitations noted above, every city (town) has the power to issue general obligation coupon bonds. They can be issued for public improvements (as defined in W.S.15-7-101) and as otherwise allowed by law. Their form and the manner in which they are issued and redeemed are spelled out in considerable detail in the statutes. Before general obligation bonds can be issued, the governing body must pass an ordinance specifying the purpose of the bonds and obtain the approval of the voters at a regular or special election.

Bond Elections

Wyoming Political Subdivision Bond Election Law (W.S. 22-21-101 through W.S. 22-21-112) specifies how bond questions are to be submitted to electors and the contents of the questions.

For bonds requiring voter approval, the bond question can only be presented on specific dates. Every bond election shall be held on the same day as a primary election or general election, or on the Tuesday next following the first Monday in May or November, or on the Tuesday next following the third Monday in August (W.S. 22-21-103).

Local Improvement Bonds

When the governing body of any city (town) determines that the improvements--construction or improvement of streets, curbs, gutters, sidewalks, and the like--will specially benefit adjoining property, it can create a local improvement district and assess all or a part of the cost and expense of the improvements against the benefited property. The governing body by ordinance can issue local improvement bonds to finance such improvements. These bonds are not subject to the debt limitation previously discussed. Local improvement districts and the procedures for financing are discussed in more detail in the chapter on Local Improvements (W.S. 15-6-101 through W.S. 15-6-609).

Revenue Bonds

Revenue bonds are payable solely from the revenues of specified income-producing property. They are issued to finance the cost of acquiring, constructing, or improving specific property. They are not subject to the debt limitations specified above. The form, issuance, and redemption of revenue bonds are governed by the various statutes authorizing their use. Generally, before revenue bonds can be issued, the governing body must:

1. Pass an ordinance which describes the contemplated project, estimates its cost and useful life when this is pertinent, and states the amount of bonds to be issued and all details in connection with the bonds; and
2. When required by law, obtain the approval of the voters at a regular or special election.

Commercial Paper

Commercial paper is a debt instrument issued by commercial entities (i.e. corporations) to local governments. Generally Commercial Paper is not often used by municipalities because of the risk. The risk associated with financing municipal projects thorough the use of commercial paper is that the commercial paper is not backed by the Federal Government rather it is backed against the perceived future value of a private sector business or corporation. Commercial paper of corporations organized and existing under the laws of any state of the United States can be purchased, provided that at the time of purchase, the commercial paper shall (W.S. 9-4-831(a) (xxvi):

1. Have a maturity of not more than 270 days; and
2. Be rated by Moody's as P-1 or by Standard & Poor's as A-1+ or equivalent ratings indicating that the commercial paper issued by a corporation is of the highest quality rating.

Funding and Refunding Bonds

As prescribed in the statutes (W.S.15-8-101 through W.S.15-8-106), any city or town, without first obtaining the approval of the voters, can pay, redeem, fund, or refund its indebtedness by issuing negotiable coupon bonds if it can be done at a lower interest rate or to the benefit and profit of the city (town). This can be done when:

1. Any indebtedness not in excess of taxes for the current year was created to restore or repair improvements which were damaged after the city (town) had made its annual appropriations;
or
2. A court has granted any judgment against the city (town); or
3. Any other lawful debt is outstanding.

No bonds can be issued unless the governing body first provides for them by ordinance. In general, these bonds must:

1. Be registered, negotiable, coupon bonds;
2. Bear interest at a rate designated by the governing body;
3. State whether the interest is payable annually or semi-annually and the place of payment which can be the city (town) treasurer's office or any other place specified by the governing body;
4. State the payment date which cannot be more than 30 years after their date of issue;
5. If they are serial bonds or redeemable, state this fact; and
6. Not be sold or exchanged for less than or redeemed for more than their face value plus accrued interest at the time of their sale or exchange or redemption.

In addition, a tax sufficient to pay the interest on the bonds and to redeem them as they come due may be levied and collected annually.

Subject to any constitutional and statutory debt limitations and the provisions of the General Obligation Public Securities Refunding Law (W.S.16-5-101 through W.S.16-5-119), any city or town, without an election, can refund any public security or securities for one or more of the following purposes:

1. To extend the payment date of all or part of the outstanding public securities for which payment is in default, or for which there is not or it is certain that there will not be sufficient money to pay either the principle or interest as it comes due;
2. To reduce interest costs or effect other economies; and
3. To reorganize all or a part of its outstanding public securities in order to equalize tax levies.

As used in this act, “public security” means a bond, note, certificate of indebtedness, warrant, or obligation for payment other than a warrant or similar obligation payable within one year after its date of issue, any obligation payable primarily from special assessments, or any obligation payable from specified revenues other than general taxes.

Duties of Municipal Clerk and Treasurer

Unless otherwise provided by law, bonds and coupons are signed by the mayor and countersigned by the treasurer and the clerk. Review whether use of facsimile signatures is allowed with the city/town attorney.

Article 16, Section 8, of the Wyoming Constitution requires that all evidences of debt have a certificate endorsed on them stating that they are issued pursuant to law and are within the debt limit. Wyoming statutes provide that a public security--bond, note, certificate of indebtedness, or other obligation for the payment of money--can be signed with a facsimile signature so long as one of the official signatures is manually subscribed (W.S. 16-5-408). Facsimile signatures can be used on the coupons.

The city (town) treasurer must keep a bond register which shows the number of the bond, the date of issue, to whom issued, the amount, date of redemption, and payment of interest (W.S. 15-7-105(b), W.S. 15-8-102(a)). Some municipalities have computerized bond coupon records. The date each coupon is paid must be stamped on the record. Advance payment of coupons should not be made.

The city (town) treasurer must cancel the coupons by cutting the word “paid” into them as soon as they are paid. When the bonds are paid, the treasurer must cancel them by having the word “paid” cut in the body of the bond (W.S. 15-7-108, W.S. 15-7-114(b), W.S. 15-8-102(b)). Bonds and coupons should be retained for the minimum time period, pursuant to records retention schedules for local governments issued by the Wyoming State Archives Division, before they are destroyed.

TIP: Local government records retention schedules may be located on-line at <http://wyoarchives.state.wy.us>

CHAPTER 11

IMPROVEMENT DISTRICTS

LOCAL IMPROVEMENTS

Special Improvement / Assessment Districts

Because many city and town improvements--for example: new or improved streets, curbs and gutters, sidewalks, etc.--confer a special benefit on property in the area so improved, Wyoming law provides that all or a part of the cost of the improvements can be collected from the owners of the benefited property. This is done by creating a local improvement (also referred to as a special assessment) district. The procedures to be followed are detailed in the statutes (W.S.15-6-101 through W.S.15-6-609).

***TIP:** Improvement districts are highly technical and involve several notifications, and public hearing requirements. Receive advice from the city/town attorney to ensure you meet clerk, treasurer and finance officer responsibilities.*

MUNICIPAL LIENS

When Lien Arises

Special assessments become a lien on the property assessed when the assessment roll after confirmation by the governing body and certification thereto by municipal clerk, is placed in the hands of the city (town) treasurer for collection. This lien is superior to any other lien or encumbrance regardless of when created except a lien for assessments of general taxes (W.S.15-6-406).

Release of Liens

If the amount of any assessment including interest, penalty, and costs and charges accrued thereon is paid to the municipal treasurer before the lien is foreclosed, the treasurer must mark the assessment paid together with the date of payment on the assessment roll. If any property sold for any assessment is redeemed, the treasurer must enter that fact together with the date of redemption on the roll. These entries must be made on the margin of the roll opposite the description of the property (W.S.15-6-415).

Foreclosure of Liens

The ordinance confirming the assessment roll must state the time within which the assessment or installments thereof must be paid and must provide for the payment and collection of interest thereon at a rate established by ordinance. Any assessments or installments thereof that are delinquent must, in addition to interest, bear a penalty of not more than five percent as prescribed by general ordinance. Interest and penalty are a part of the lien. All local assessments are collected by the municipal treasurer. All liens must be enforced in the manner provided. In cities

and towns which are not cities of the first class, delinquent assessments or delinquent installments thereof must be certified to the county treasurer who must enter them upon the general tax rolls and collect them as other taxes are collected.

All sums so collected must be remitted by the county treasurer to the municipal treasurer on the tenth of each month (W.S.15-6-409).

Sale of Property

If an assessment or any installment thereof is delinquent, the city or town by general ordinance can provide for the sale of the assessed property. The treasurer must give notice of such sale by publishing a notice once a week for three consecutive weeks in a newspaper published within the city or town or, if none, in a newspaper of general circulation in the county. The notice must contain a list of all property upon which assessments are delinquent with the amount of the assessments, interest, penalties, and all costs to the date of sale, together with names of the owners of the property, or the words “unknown owners”, as they appear on the assessment roll. The notice must state the time and place of the sale and that the described property will be sold to satisfy all charges against it. The sales must be made between the hours of 10 A.M. and 4 P.M. and must take place at the front door of the building where the governing body holds its meetings. The sale must continue from day to day until all property is sold. No sales will be made on Sundays and legal holidays. All sales are public and each lot, tract, or parcel of land or other property is sold separately in the order which they appear on the assessment roll.

If there is no bidder offering to pay an amount sufficient to satisfy all charges, the treasurer must strike it off to the city or town for the whole amount. If any successful bidder fails to pay the amount of his/her bid by 10 A.M. of the day following the sale, the property must be resold. If the assessment sale is over, the property is deemed to have been sold to the city or town and a certificate of sale shall be issued to the city or town (W.S. 15-6-410).

Refer to W.S. 15-6-411 through 15-6-418 for detailed provisions involving sale of property involving delinquent assessments.

TIP: All monies collected by the treasurer upon any assessments must be kept in a separate fund known as a “local improvement fund, district no. ”, or by any other appropriate designation approved by the governing body. The fund must be used for the retirement of any obligation or debt created in the construction of the improvement. (W.S. 15-6-413)

Foreclosure By Suit

Any city or town may proceed with the collection or enforcement of any delinquent assessment or delinquent installment in an action brought in its name in the district court in the county in which the municipality is located (W.S. 15-6-419).

Reassessments

If any special assessment for local improvements is invalid in whole or in part for any reason, the governing body may reassess the assessments and enforce their collection in accordance with the provisions of law and ordinance existing at the time the reassessment is made. Refer to W.S. 15-6-427 through 15-6-430 for more information.

Bonds

If it so desires, the governing body can provide by ordinance for the issuance of bonds to pay for all or any portion of the cost and expense of any local improvements. Such bonds may be issued to the contractor or issued and sold as otherwise provided. The bonds must be issued pursuant to the ordinance authorizing their issuance. (W.S. 16-6-431 through 16-6-439).

Sidewalks

As found in W.S. 15-6-501 through W.S. 15-6-504, any first class city or any town having a population of 4,000 or more may provide by ordinance for letting to the lowest responsible bidder for a period not exceeding one year, a contract for construction, in accordance with specifications prepared by the city (town) engineer and approved by the governing body, of all cement or concrete sidewalks which the governing body may order to be constructed during the term of the contract. Any owner of any lot or parcel of land or property is assessed for the cost of construction of the sidewalks, which may include any notice, curbing, grading, handrailing, private crossing and all other necessary expenses. The provisions of W.S. 15-6-501 through 15-6-504 set forth procedures that must be followed regarding a hearing, ordinance publications, and public and property owner notification requirements.

Street Lighting Districts

The governing body of any city or town having a population of more than 8,000 may create lighting districts in its business portions embracing any street or avenue or portion thereof and abutting property and require the cost of installing the system to be paid by the owners of the property abutting upon a street or avenue within the district, including any street or other railway therein, and assess and collect the cost of the installation by special assessment against that property. The cost of maintenance of the lighting system shall be paid by the city or town at large. The provisions of W.S. 15-6-601 through 15-6-609 set forth procedures that must be followed.

PUBLIC IMPROVEMENTS

W.S. 15-7-101 through W.S. 15-7-708 sets forth certain public improvements Wyoming cities and towns may make for which bonds may be issued and specifies procedures that must be followed. No bonds may be issued until the proposition to issue them has been submitted to and approved by the qualified electors of the city or town at an election which shall be called, conducted, canvassed and returned in the manner provided for bond elections by the Political Subdivision Bond Election Law, W.S. 22-21-101 through 22-21-112.

Cemeteries

All cities and towns have the general power to acquire, improve, maintain, and regulate the use of cemeteries (W.S. 15-1-103(a)(xi)). Specific powers of incorporated cities and towns with respect to municipal cemeteries to be used for burial purposes are outlined in W.S. 35-8-201. W.S. 35-8-101 through 35-8-406 sets forth provisions for surveying and platting of cemetery grounds; conveyance of cemetery lots; use of income, and authority to borrow money and issue bonds for purchasing and improving lands for cemetery purposes. These statutes also provide for the establishment of special cemetery districts; specifications pertaining to vaults, crypts and mausoleums and procedures for declaring any unoccupied burial lot as abandoned by the owner.

Off-street Parking

To reduce street congestion, the governing body of any city or town may construct and provide off-street parking facilities (W.S. 15-1-801). A city or town may:

1. Appropriate by ordinance all or any portion of the revenues derived from the use of parking meters for the creation, purchase, lease, construction and maintenance of off-street parking facilities;
2. Pledge on-street parking meter funds, or proceeds of gasoline taxes in the manner and subject to the limitations prescribed in W.S. 15-6-437, as additional security for the authorized bonds;
3. Issue revenue bonds for the creation, purchase, lease, construction and maintenance of off-street parking facilities, or refunding revenue bonds to refund, pay or discharge all or a part of its parking facility revenue bonds, including interest. The procedure for issuing revenue or refunding revenue bonds is the same as that prescribed by W.S. 35-2-424 through 35-2-436, as amended;
4. If parking meters are not used, use any other funds available to carry out the provisions of 15-1-801.

Fire Fighting Facilities

All cities and towns have the power to organize, support, and equip a fire department (W.S. 15-1-103(a)(xxiii)). A city (town) may borrow money and issue coupon bonds to acquire and purchase supplies, equipment and apparatus for fire prevention and control and to erect, construct or purchase buildings for housing its fire extinguishing equipment and for the use of its fire department in the transaction of its official business. The bonds issued at any one time cannot exceed four percent of the assessed valuation of the city (town). The bonds must bear interest, payable semiannually, be of the denomination and payable at a rate, at a place, and in the manner the governing body provides. The bonds must be redeemable after ten years and payable not more than 30 years after the time they are issued or payable serially as provided in W.S. 16-5-302 (W.S. 15-7-104).

CHAPTER 12

UTILITIES

TIP: *In an effort to improve public safety, Wyoming One-Call and the Wyoming Association of Local Utility Coordinating Councils have combined to become One-Call of Wyoming. For help in locating underground pipelines and electrical wire, call 811; contact Call Center Customer Support at 1-800-849-2476, or visit One-Call's website at www.onecallofwyoming.com.*

Electric Power

Authority

W.S. 15-7-201 through 15-7-209, contains provisions relating to a city or town which may supply electric current to persons, corporations and municipal corporations outside of the city (town) limits. The statutes provide a description of the municipality's general powers, and required establishment of an electric line fund for monies derived from the sale of electricity or electric current. In addition, the statutes set forth the procedure to be utilized if a city or town seeks to sell a municipal-owned power plant, which requires an election and approval of a majority of qualified electors.

Board of Public Utilities

Any city or town which owns and operates a municipal waterworks, sanitary sewer system, sewage disposal plant, or electric utility distribution system can establish a board of public utilities to manage, operate, maintain, and control such plants and make all necessary rules and regulations therefore (W.S.15-7-401).

The board consists of five members appointed by the mayor with the advice and consent of the governing body. The terms of the first members of the board are staggered (one for two years, two for four years, two for six years). Thereafter, each member is appointed for a term of six years. Any member, after a public hearing, can be removed for cause (other than politics or religion) by the mayor, if the governing body agrees. Vacancies (for the unexpired term only) are filled by the mayor. Members of the board must have business experience, be at least 30 years old, be United States citizens, and be residents of the city (town) for at least five years preceding their appointment (W.S.15-7-402). Their salaries are fixed by ordinance but cannot exceed \$600 per year. The board must elect a president and secretary from its membership, meet at least monthly and on call of the president or three members, and keep a record of its proceedings. A quorum (three members) is necessary for the transaction of business. Its meetings, records, and accounts are public (W.S.15-7-403).

The powers and duties of the board are set forth in W.S.15-7-404 through W.S.15-7-409, and W.S.15-7-412.

Role of Municipal Treasurer

The city (town) treasurer is ex-officio treasurer of the board. The board has control over all funds and property belonging to the departments which are in the treasurer's hands. The municipal treasurer must receive and receipt the money collected by the board's employees; and pay out those funds when ordered by the board on warrants signed by the board's president and countersigned by the office manager, certifying the warrant is issued by the board's authority. The city (town) treasurer also must cooperate with the office manager and supply him/her with official information necessary for the office manager's monthly reports and any other information the board requires. The municipal treasurer must give a surety bond in the sum approved by the board who pays the cost of the bond (W.S.15-7-410).

Role of Municipal Clerk

The city (town) clerk must furnish the board with copies of all required ordinances, resolutions, agreements, contracts, and other records the board requires (W.S.15-7-411).

Sewerage Systems

Any city or town can construct, reconstruct, improve and extend, or acquire, extend, improve, and operate a sewerage system within or without the city (town) limits; apply for and accept loans, grants, or other aid from the United States Government or any agency or instrumentality under any federal law to aid in the prevention and abatement of water pollution; borrow money from any other source; and issue revenue bonds to pay therefore. In addition, any city or town may make special assessments for the construction of sewers and water mains. The formula for determining the amount to be assessed by affected property holders is set out in W.S. 15-7-512.

The definition of "sewerage system", provisions pertaining to the issuance of revenue bonds, and refunding revenue bonds, and payment of the bonds are contained in W.S. 15-7-501 through 15-7-512.

TIP: *W.S. 15-7-101 through W.S. 15-7-708 also sets forth certain public improvements Wyoming cities and towns may make for which bonds may be issued and specifies procedures that must be followed.*

Waterworks Systems

Any city or town owning its municipal water system or plant may enter into agreement with the owners of lands who desire to have the water system extended to their property within the corporate limits of the city or town. The land owners must agree to pay to the city (town) a stipulated amount, in installments as may be agreed upon, for a period of not to exceed ten (10) years, regardless of the use or nonuse of water during the period, and to making the charges a lien upon their respective lands. When the agreement has been filed with the city (town) clerk, the charges become a lien upon the lands. Any city (town), by ordinance, may prescribe the rules and regulations governing the agreements and provide for the enforcement of the lien (W.S. 15-7-601).

All cities and towns owning their municipal water system or plant may enter into agreements with customers whose lands lie outside the corporate limits to supply water for their use and needs. The water system may be extended and maintained beyond the corporate limits only if it is economically feasible in the opinion of the governing body. The governing body may finance the extension and maintenance of the water system through revenue bonds or other means granted by law for financing of its water system and improvements. A one-time connection fee reasonably calculated to permit recovery of a proportionate share of the municipality's infrastructure cost necessary to treat and convey the water may be charged. A one-time fee may also be charged to recover reasonable expenses incurred in determining the actual costs of treating and delivering water to the point of connection. Any charges for special services such as customer's line maintenance shall be in addition to the water rate. Provisions setting forth the rate established for use of water are contained in W.S. 15-7-602.

In addition, any city or town may enter into and fully perform contracts made with the United States Government or any department or representative thereof, or road construction contractor working under a contract with the state highway commission, or with a public utility corporation to supply water for their use and needs at any place within the corporate limits of the city or town or adjacent thereto (W.S.15-7-603), and to contract to furnish water at or adjacent to the city or town to any railroad company and any subsidiary or affiliate whose principal business is the furnishing of material or service or both to the railroad company and to any industrial user of water whose needs for water are defined as preferred uses after the industry has established its own priority (W.S.15-7-604).

The governing body of any city or town may also grant the right to construct, maintain and operate a system of waterworks within the corporate limits of the city (town) to any corporation organized under the law of Wyoming for that purpose. W.S. 15-7-701 through 15-7-708 sets forth the provisions involving a corporation acquiring a right or franchise from the governing body to construct waterworks.

Natural Gas Systems

Municipal authority is granted to establish, construct, purchase or extend propane, butane and natural gas distribution systems or lines and to carry propane, butane and natural gas to the city or town, from the place of origin or where the propane, butane or natural gas is obtained (W.S. 15-7-101(a)(vii)). In addition, municipalities have the authority to negotiate gas suppliers and pricing for gas. Details of this authority are listed in Chapter 7, the Municipal Revenue Section, of this Handbook under Franchises.

If a municipality wishes to have the quality of natural gas tested, they may require the state chemist to test the natural gas as often as every three months. Tests will be certified to the mayor, or city council, and to the Public Service Commission (W.S. 40-9-104 and 105).

Telecommunication Systems

Municipalities have the authority to take all necessary action to regulate the use of streets and alleys under which cable television, telephone lines and other lines fall under W.S. 15-1-

103(a)(xi). Normally the non-exclusive authority of a cable television or telecommunication company would be controlled through the use of a franchise. For additional information refer Chapter 7, the Municipal Revenue Section, of this Handbook under Franchises.

Also note that Federal law and rules and regulations involving telecommunications is rapidly changing. Federal laws and rules can, potentially, impact siting and zoning decisions or concerns. Consult with your municipal attorney when considering requests from telecommunication companies for locating facilities in your community.

CHAPTER 13

INSURANCE AND LIABILITY

Overview

Every municipality and town should have a risk management and insurance program. The sophistication within the structure of insurance makes it essential that the individual responsible for administering the program be familiar with risk management and insurance contracts. However, at a minimum, municipalities should seek the expertise of their agent and carrier when formulating an insurance and risk management program.

Tort Claims and Insurance

A tort is a civil wrong, not arising from a contract, which violates the rights of another for which money damages may be obtained. A tort can be intentional or unintentional. Liability insurance generally provides no protection for the insured against liability arising out of intentional acts and/or liability assumed by contracts.

Tort liability is generally considered to rest on one of three bases:

1. Intentional invasion of the interests of others;
2. Negligence; and,
3. Strict or absolute liability, which exists without regard to intent, negligence, or fault.

One of the most important basis of tort liability for municipalities is that of strict or absolute liability. 42 USC 1983 (protecting against civil rights violations) holds government to a greater degree of accountability.

Therefore, increased public liability drives government to provide more effective services and risk management programs.

Wyoming Governmental Claims Act

Provisions of the Wyoming Governmental Claims Act are contained in W.S. 1-39-101 through 121 which address governmental entity and employee, while acting within the scope of duties, immunity; claims procedures; statute of limitations; amounts of liability; insurance coverage, and exclusions from waiver of immunity. Any actions filed under the Governmental Claims Act should be submitted or reviewed with the city or town attorney.

Claims

Provisions of W.S. 1-39-113, regarding the filing of claims under the Act, specify that claims filed against a local government must be filed at the business office of that entity, and provides specific information that must be provided in the complaint. "Business office" for municipalities

means: The city or town clerk of a city or town, including its agencies, instrumentalities and institutions.

Authority to Carry Liability Insurance

As authorized in W.S. 15-1-104 and 1-39-118, any city or town may carry liability insurance in an amount the governing body deems necessary. The insurance shall be:

1. On standard policy forms approved by the State Insurance Commissioner;
2. With companies authorized to do business in Wyoming;
3. Paid out of the general fund of the city or town.

In addition, a governmental entity may establish a self-insurance fund or join with other governmental entities in a “pooled” insurance fund (W.S. 1-39-118(c)).

TIP: Provisions of the Recreation Safety Act (W.S. 1-1-122, 123) apply to governmental entities that provide sport or recreational opportunities relating to “inherent risk”. W.S. 34-19-101 through 34-19-107 also addresses liability of owners of land used for recreation purposes.

Liability coverage is available from local insurance agencies, WARM (Wyoming Association of Risk Management) and LGLP (Local Government Liability Pool). WARM (website: www.warmpool.org) and LGLP (website: www.lglpwyoming.org) are established as joint powers boards in accordance with W.S. 1-42-201 through 207 with offices in Cheyenne.

Cancellation of Insurance Policies

Cancellation and non-renewal of insurance policies laws provide that notices of cancellation or non-renewal are to be mailed or personally delivered, to the insured and the agent; that any unearned premiums will be refunded to the policy holder prior to cancellation; that mid-term cancellation of an entire line, or class of business, is declared unlawful; and that it is unlawful to increase the annual premium during the term of a multi-year policy for which the annual premium has been guaranteed (W.S. 26-35-101 through 103). W.S. 26-35-201 through 26-35-204 includes specific limitations on cancellations of property and casualty insurance policies.

Insurance providers must be licensed to conduct business in the State of Wyoming and approval and regulation of providers is through the State of Wyoming Department of Insurance. W.S. 26-1-101 (Title 26) constitutes the Wyoming Insurance Code.

Health and Life Insurance

Various municipalities have policies authorizing health and/or life insurance coverage for employees. The premiums for the coverage, depending on the municipality, may be participating

or non-participating on the part of the employee. In some cases, the employee pays a portion of the premium. Health insurance coverage can be obtained from local insurance agencies or through the WAM-JPIC (Joint Powers Insurance Coverage) Insurance Program. The WAM plan is a self-insured program offering coverage for health benefits, life insurance, and retirement. Claims are administered through a third party.

TIP: For more information on WAM-JPIC, contact the WAM office at 307-632-0398 (website: www.wyomuni.org).

Property and Casualty Insurance

Property and casualty insurance is for coverage on property, including fire, inland marine, crime, boilers, cyber security and vehicles. Coverage includes replacement cost, a level of coinsurance, deductibles, and blanket limits. Coverage can be obtained from local insurance companies.

WARM (Wyoming Association of Risk Management) also has a separate joint powers board formed to provide local governmental property insurance coverage.

Peace Officer Liability Program

A State self-insurance program provides for expenditures out of the self-insurance account to pay for claims against a peace officer employed by a local government which have been brought under the Wyoming Governmental Claims Act or under 42 U.S.C. 1983 or other federal statutes. Local governments are responsible for matching any amount paid out of the fund account up to \$20,000 for, or in defense of each claim (W.S. 1-41-103). Claims will be paid through the self-insurance account only if the peace officer was acting within the scope of his duties. A governmental entity is liable for damages resulting from tortuous acts of police officers while acting within the scope of their duties (W.S.1-39-112).

Cities' and towns' coverage only extends to the insured, who is the police officer. It does not provide protection for claims against the municipality as a corporation or its officers. Cities and towns must secure this type of insurance coverage as part of their general liability or public officials' liability policy.

Employee Liability

The Governmental Claims Act (W.S. 1-39-104) provides that a governmental entity and its public employees, while acting within the scope of duties, are granted immunity from liability for any tort except as provided by W.S. 1-39-105 through W.S. 1-39-112.

When liability is alleged against any public employee, if the governmental entity determines that the employee was acting within the scope of his duties, the governmental entity must provide a defense at its expense. A governmental entity shall assume and pay any judgment entered under this act against any employee provided that the act or omission upon which the claim is based has been determined by a court or jury to be within the scope of duties of the employee; the payment for the judgment shall not exceed the limits provided by (W.S.1-39-118); or, all

appropriate appeals from the judgment have been exhausted, or the time has expired when appeals may be taken.

A governmental entity shall assume and pay settlements of claims under this act against public employees in accordance with (W.S. 1-39-115).

In addition, cities and towns are statutorily liable for the following:

1. In the operation of motor vehicles, aircraft, or watercraft (W.S.1-39-105);
2. In the operation or maintenance of buildings, recreation areas, or public parks (W.S.1-39-106);
3. In the operation of airports (W.S.1-39-106);
4. In the operation of public utilities and services (W.S.1-39-108);
5. In the operation of a public hospital or providing out-patient health care (W.S.1-39-109);
6. In the provision of health care (W.S.1-39-110);
7. For the tortuous conduct of law enforcement officers while acting within the scope of their duties (W.S.1-39-112).

False or Frivolous Liens

W.S. 29-1-601 addresses any claim of lien involving real or personal property against a local official or employee based on the performance or nonperformance of that official's or employee's duties.

TIP: *Unless in conflict with the Governmental Claims Act, any person who donates surplus emergency equipment to any emergency responder is not liable for damages in any civil action or subject to prosecution in any criminal proceedings resulting from the nature, age, condition or packaging of such equipment. Exemption does not apply to the grossly negligent, willful, wanton or reckless acts of donors. (W.S. 1-1-138).*

Suggested Components for an Effective Liability Program

A risk management program designed to control an entity's liability losses has several noteworthy objectives:

1. To protect the organization's assets;
2. To ensure a safe environment for employees and members of the public who come into contact with employees as services are provided;

3. To minimize the possible interruption of vital public services;
4. To safeguard that all exposures to financial loss are identified and treated;
5. To reduce the cost of accidents, including the cost of insurance premiums, through effective safety programs and practices; and
6. To reduce other financial losses by using effective loss control procedures.

A conscientious and systematic risk management/loss control program may seem overly imposing to a local government, regardless of size. Employees who have a multitude of other functions to perform may question whether it is really worth keeping records, documenting actions, doing inspections, following procedures, etc. However, before reaching any conclusions, consideration should be given to the extensive benefits which far outweigh these costs.

There are three basic steps in the risk management process. The first is to identify risks, the second is to control risks, and the third is to evaluate the risk management program and revise the program as necessary.

Risk identification includes five basic types of exposures: i.e. physical property, loss on income, extra expense, legal liability to others and employee exposures.

Once the risks and exposures have been identified, they need to be analyzed and controlled. The four basic ways of controlling risk are: elimination, reduction, retention and transfer (through insurance, lease or hold harmless agreements).

The final step in the risk management process is to evaluate the program and make corrective or adaptive actions as necessary. This step provides a channel for feedback and networking. It should also establish performance standards as necessary to evaluate your program.

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CHAPTER 14

ELECTIONS

Introduction

This chapter outlines the nomination and election processes for candidates seeking municipal office, and references other local election provisions.

Nominations

All municipal offices are nonpartisan, and municipal officers must be qualified electors whose residence is in the municipality and any ward established under W.S. 22-23-103 or 15-11-105 (W.S. 22-23-102). For definitions of “qualified elector” and “residence” see W.S. 22-1-102(a)(x) and (a)(xxx).

All candidates for municipal office are nominated at the municipal primary election (W.S. 22-23-301). A candidate must be a registered voter, and a resident of the municipality (and ward, if applicable) which they seek to represent on the day the petition (i.e. Application for Nomination by Primary form) is filed, and shall not be an employee of the municipality. The term employee includes only those persons receiving an hourly wage or salary from a municipality. A person who provides volunteer services to a municipality shall not be considered an employee under this section based solely upon coverage under the Wyoming Worker’s Compensation Act or other pension, death or disability program. If a currently employed municipal employee wishes to run for municipal office, check with the city/town attorney for legal guidance.

In order to be a candidate for a municipal office, each applicant must complete and sign an application (W.S. 22-5-205 and 22-23-302) in the form prescribed. The application together with a nonrefundable \$25 filing fee must be filed with the city (town) clerk not more than 96 days and not later than 81 days before the municipal primary election (W.S. 22-23-302). The city (town) clerk certifies the names of all qualified candidates, and the office each seeks, to the county clerk no later than 68 days before the municipal primary election. The number of municipal candidates the voters are entitled to vote for at the primary election is the number of candidates to be elected to municipal offices at the general election (W.S. 22-23-303).

TIP: An Application for Nomination by Primary form cannot be accepted/filed with the municipal clerk prior to the first filing date nor accepted later than the last filing date pursuant to W.S. 22-23-302.

Primary election returns are canvassed by the county canvassing board who certifies the result in writing to the county clerk and the city (town) clerk. Based on the highest number of votes received, candidates equal to twice the number to be elected to each office are nominated to run for the office at the next general election and shall be issued a certificate of nomination by the county clerk.

A write-in candidate shall not be nominated and shall not be entitled to have their name printed on the general election ballot unless they received at least three votes. Refer to W.S. 22-23-307 for information on who contacts eligible write-in candidates and time frames for candidates to accept a nomination.

TIP: *The county clerk must publish a proclamation in a newspaper of general circulation, within the timeframe prescribed in W.S. 22-2-109, prior to each primary and general election. The proclamation contains the date of the election, offices to be filled and their terms, etc. The county clerk must post the proclamation in the county clerk's office and at the place where each municipality within the county regularly holds its council meetings.*

Nomination Application Form For Nonpartisan Office

An eligible person seeking nomination for a nonpartisan office must file an application pursuant to W.S. 22-5-205 and 22-23-302. Forms may be found on the Wyoming Secretary of State's website or obtained through the county clerk.

Vacancies in Offices

The governing body, by ordinance, shall specify the procedure for determining whether a vacancy exists. Pursuant to statute a vacancy exists in the office of mayor or councilman if during the term for which elected any mayor or councilman: (i) Except as provided in W.S. 22-23-103, fails the residency requirements as defined by local ordinance for the city, town or ward; (ii) Is convicted of a felony; (iii) Fails to attend four or more consecutive regularly scheduled meetings of the council without an excused absence as determined by a majority of the council according to procedures adopted pursuant to W.S. 15-1-107(b); (iv) Dies; (v) Resigns; (vi) Is determined by a court having jurisdiction to be mentally incompetent; (vii) Is disqualified from holding office for any reason specified by law; (viii) Is convicted of a felony or constituting a breach of his oath of office; (ix) Refuses to take the oath of office or to give or renew an official bond if required by law; or (x) Has his election voided by court decision. (W.S. 15-1-107(a)(b); W.S. 22-18-101(a)(e) and (v)).

If a vacancy is determined to exist, the governing body shall appoint an eligible person to the office who shall serve until his successor is elected at the next general municipal election and qualified. If the entire council is vacant, the district judge for the district in which the city or town is located shall appoint a person to fill each vacancy and serve until the next general municipal election at which time a successor shall be elected to fill the unexpired portion of each term. A vacancy in the office of mayor shall be filled only from the governing body. (W.S. 15-1-107)(c) and (d)).

Vacancies In Nomination

Pursuant to W.S. 22-23-308, a vacancy in nomination for a municipal office to be filled at a general election occurs if:

1. A candidate nominated at a primary election declines to accept the nomination, dies, moves his residence from his constituency or becomes disqualified to hold the office for any reason provided by law;
2. After the primary election there are no nomination applications for the office of mayor or councilman.

A vacancy in nomination shall be filled by the municipal clerk notifying the person who received the next highest number of votes at the municipal primary election (pursuant to the official county canvass) or, if no other candidate exists, the vacancy in nomination may be filled by the governing body of the municipality.

Not less than 60 days prior to the general election, the municipal clerk shall certify to the county clerk the names of all qualified candidates who have accepted nomination by write-in vote and those nominated by the governing body and the office they seek.

Campaign Materials on Public Property

According to W.S. 22-25-115, campaign advertising shall not be placed on any property of the state or its political subdivisions; however, this provision does not include state or county fairgrounds. In addition, the University of Wyoming, any community college and school district may permit such advertising subject to the regulations established. Also, the department of transportation will allow campaign materials to be placed on a state right-of-way within a municipality to the same extent which the municipality allows campaign materials to be placed on municipal street rights-of-way. Finally, in all cases, whatever rules and regulations are adopted shall provide equal access to opposing political views. Refer to W.S. 22-25-110 for information on campaign advertising.

Campaign Practices

Electioneering too close to a polling place or absentee polling place under W.S. 22-9-125 when voting is being conducted, consists of any form of campaigning, including the display of campaign signs or distribution of campaign literature, the soliciting of signatures to any petition or the canvassing or polling of voters, except exit polling by news media, within 100 yards on the day of a primary, general or special election and within 100 feet on all other days, of any public entrance to the building in which the polling place is located (W.S. 22-26-113). This section of statutes does not apply to bumper stickers affixed to a vehicle while parked within or passing through the distance specified and meeting conditions outlined in W.S. 22-26-113.

TIP: *Municipal candidates must comply with campaign report filing provisions per state law. W.S. 22-25-108 states that any person required to file a report under W.S. 22-25-106 shall be given notice prior to an election, by the appropriate filing office (i.e. city/town clerk) that failure to file the reports within the time required shall subject the person to civil penalties. The notice shall inform any candidate's campaign committee, organization, political party or political action committee that the officers responsible for filing the report shall be subject to the same civil penalties.*

Additional provisions concerning campaign practices, including contribution of funds or election assistance, candidate committees, and filing of reports, are included in W.S. 22-25-101 through 22-25-115.

Elections

Unless otherwise specifically provided by law, all municipal elections are governed by the laws regulating statewide election. The board of county commissioners will divide the county into election districts no later than its first meeting in April in every general election year. If the municipality holds a separate election, it pays the actual cost thereof. If the municipal election is held in conjunction with a statewide election, it pays an equitably proportioned share of the concurrent election as determined by the county clerk (W.S. 22-23-101).

Except as noted in the section on town elections, all municipal primary and general elections are held at the same time and places, in the same manner, and are conducted by the same officials as the statewide primary and general elections (W.S. 22-23-201). Primary elections are held on the first Tuesday after the second Monday in August of each general election year (W.S. 22-2-104). General elections are held on the first Tuesday after the first Monday in November of each even-numbered year (W.S. 22-2-104). Any municipal question or measure which is to be submitted to a vote at an election must be certified by the city (town) clerk to the county clerk not later than 60 days before the election and must be printed on the municipal ballot by the county clerk unless state law provides otherwise (W.S. 22-23-204). The municipality pays for the cost of such ballots (W.S. 22-23-401).

The county canvassing board canvasses and certifies in writing to the city (town) clerk the returns of municipal primary and general elections. When the county canvass for a primary election is concluded, the county clerk issues a certificate of nomination to each municipal candidate nominated at a primary election (W.S. 22-16-121(a)). The county clerk issues a certificate of election to each municipal candidate duly elected to a city or town council at a general election (W.S. 22-16-121(b)).

Except as otherwise provided by W.S. 22-23-202, the term of office of a person elected at a municipal general election starts on the first Monday in January following such election (W.S. 22-23-404). Before entering his duties, a person elected to a municipal office shall sign and file with the city/town clerk the same constitutional oath of office as county officers (W.S. 22-23-405; oath – Wyoming Constitution, Article 6, §20; who may administer oath – W.S. 1-2-102).

Any registered voter residing in precincts in the city or town may vote in its elections (W.S. 22-3-101(a), W.S. 22-23-201(b)). A person may register to vote not less than 14 days before an election, at any election specified in W.S. 22-2-101(a)(i) through (viii) or as provided by W.S. 22-3-117, who satisfies the following qualifications (W.S. 22-3-102):

1. Is a citizen of the U.S.
2. Will be at least 18 years of age on the day of the next general election provided they shall not be permitted to vote until attaining the age of eighteen.

3. Is a bona fide resident of Wyoming as determined in accordance with W.S. 22-1-102 (a)(xxx).
4. Is not currently adjudicated mentally incompetent.
5. Has not been convicted of a felony, or if convicted has had their civil or voting rights restored.
6. Is a qualified absent uniformed services or an overseas citizen voter (see W.S. 22-3-102 and 22-3-117).

Optional Mode of Election

Any municipality may, by charter ordinance enacted pursuant to Article 13, §1(c) of the Wyoming constitution, elect not to conduct its elections for office or for municipal ballot propositions in the same manner as statewide elections. The charter ordinance must contain minimum provisions as set forth in W.S. 22-23-202.

Division of City into Wards; Residency

A city may be divided into wards by ordinance of the governing body of the city. The wards shall be compact in form and as nearly equal in population as possible. A person shall not be a candidate for the council from a ward for the purpose of meeting the residency requirements for the city ward, unless he/she has been a resident of that ward for at least one year next preceding his/her election. For information concerning candidates, and current elected officials whose term is not expiring, and effects of redrawing city wards, refer to W.S. 22-23-103.

Special Elections

A special election means a municipal election on any question which may legally be submitted to the voters of a municipality other than at a regular municipal primary or general election or an election on the question of whether to incorporate (W.S. 22-23-801).

Special elections are called by proclamation of the governing body which cannot be made more than 30 nor less than 15 days before the election. The proclamation must give the date of the election, the location of the polling places, and state the purpose of the election. It must be published at least twice in a newspaper of general circulation in the municipality (W.S. 22-23-802).

The governing body selects the polling places, sufficient in number to permit convenient voting, and a sufficient number of election judges who must be qualified electors resident in the municipality. Ballots are provided by the city (town) clerk, and the vote is counted by the election judges who certify the result in writing to the city (town) clerk. The governing body must meet not later than three days after the election at the time specified by the mayor to canvass the result of the special election. A tie vote is broken by lots cast by the governing body. The result of the election is certified by the governing body in writing and a copy of the

certification is immediately posted in the city (town) clerk's office. The municipal clerk must also mail a copy of the proclamation to the county clerk (W.S. 22-23-801 through W.S. 22-23-809). Refer to W.S. 22-23-801 through 22-23-809 for more information on special elections.

***TIP:** W.S. 15-1-201 through 15-1-207 contains provisions regarding incorporation of any territory as a town, including election procedures.*

Bond Elections

Bond elections, as required by law to authorize the issuance of bonds, for municipalities are conducted pursuant to the "Political Subdivision Bond Election Law" (W.S. 22-21-101 through 112). Consult with your city/town attorney or legal staff relative to any responsibilities and duties of municipal clerks.

Local (County) Optional Sales & Use; Specific Purpose, and Lodging Taxes

Optional Sales & Use Tax:

No excise tax can be imposed until the proposition is submitted (and approved by majority vote) to a vote by qualified electors of the local government involved (W.S. 39-15-203). This applies to the optional one cent sales and use tax. The ballot proposition to impose the tax is submitted to the electors of the county upon the receipt by the board of county commissioners of a petition requesting the election signed by at least five percent (5%) of the electors of the county or of a resolution approving the proposition from the governing body of the county and the governing bodies of at least two-thirds (2/3) of the incorporated municipalities within the county. If proposed by petition by electors, the number of electors required shall be determined by the number of votes cast at the last general election. The proposition may be submitted at an election held on a date authorized under W.S. 22-21-103, and the election shall be at the direction and under the supervision of the board of county commissioners. Once approved the tax has to be submitted every other general election year (every four years). If the proposition to impose or continue the tax is defeated the proposition cannot be resubmitted to the electors of the county for at least 11 months. If the proposition is defeated at any a general election following the initial adoption, the tax is repealed and shall not be collected after June 30 of the year following the general election in which it was defeated.

If the proposition is approved, the board of county commissioners shall by ordinance impose the tax. The board or the city or town council shall adopt an ordinance for the tax authorized. The ordinance must contain provisions outlined in W.S. 39-15-203(a)(i)(E)(I through V).

Specific Purpose Tax:

No specific purpose tax can be imposed or debt incurred until the proposition is submitted (and approved by majority vote) to a vote by qualified electors. Before any proposition is placed before the electors, the governing body of a county and the governing bodies of at least two-thirds (2/3) of the incorporated municipalities within the county shall adopt a resolution approving the proposition; setting forth a procedure for qualification of a ballot question for

placement on the ballot and specifying how excess funds shall be expended. Revenue from the tax must be used in a specified amount for specific purposes authorized by the electors. Specific purposes may include one (1) time major maintenance, renovation or reconstruction of a specifically defined section of a public roadway. Specific purposes does not include ordinary operations of local government except those operations related to a specific project. The amount of revenue to be collected and the purpose or purposes for which it is proposed to be used shall be specified in the proposition. The election is held in accordance with W.S. 22-21-101 through 22-21-112. Any debt created may also be repaid, in whole or in part, by a property tax levy if general obligation bonds are authorized by the electors. The tax commences as provided by W.S. 39-15-207(c) following the election approving the tax, except that it commences on the first day of any subsequent month following the receipt of tax funds in the approved amount by any tax previously imposed (W.S. 39-15-203(a)(iii)(E)). Unless terminated earlier by the sponsoring entities (W.S. 39-15-203(a)(iii)(G)), the tax terminates as provided by W.S. 39-15-207 (c) when the amount approved by the electors is collected.

No debt may be incurred or approved which when added to the existing indebtedness of the sponsoring entity or entities, would exceed the constitutional debt limitation of the sponsoring entity or entities. Nothing prohibits the approval of a proposition which establishes a fund for accumulation of funds sufficient to carry out the purpose approved or to pay a sufficient amount of the cost so as to bring the remainder of the debt within the debt limitation of the sponsoring entity or entities. (W.S. 39-15-203(a)(iii)(D))

Refer to W.S. 39-15-203(a)(iii)(E) for information regarding collection and termination time frame of the tax.

Lodging Tax:

The tax on lodging services authorized by W.S. 39-15-204(a)(ii) is in addition to and not in lieu of the tax authorized by W.S. 39-15-204(a)(i) and (iii) if both taxes are imposed. If the proposition to impose a tax on lodging services within the county is approved in accordance with W.S. 39-15-203(a)(ii)(B), a city or town cannot impose a lodging tax in addition to the county wide tax even though the additional tax does not exceed the limitation under W.S. 39-15-204 (a)(ii).

No tax may be imposed until the proposition is submitted (and approved by majority vote) to a vote by qualified electors of the county or of a city or town if the proposition is to impose the tax only city or town wide. A county may impose both taxes authorized in W.S. 39-15-204(a)(i), but the proposition to impose each tax shall be individually stated and voted upon. Except as otherwise provided, the tax commences as provided by W.S. 39-15-207(c) following the election approving the imposition of the tax. The ballot proposition is at the expense of the county and is submitted to the electors of the county upon the receipt by the board of county commissioners of a petition requesting the election signed by at least five percent (5%) of the electors of the county or of a resolution approving the proposition from the governing body of the county and the governing bodies of at least two-thirds (2/3) of the incorporated municipalities within the county. If proposed by petition, the number of electors required is determined by the number of votes cast at the last election. The election is at the direction and under the supervision of the board of

county commissioners. The election may be submitted to voters at an election held on a date authorized under W.S. 22-21-103. If the proposition is approved the same proposition can be submitted at subsequent general elections until it is defeated. If the tax is approved, the same proposition can be submitted, until defeated, at the second general election held every four (4) years thereafter. If a county, city or town has a lodging tax in place, either through a petition or by request of the county, city or town, the proposition posed at the next election may contain a larger tax not to exceed four percent (4%). If the proposition to impose or continue the tax is defeated the proposition cannot again be submitted to electors of the county for at least eleven (11) months. If the proposition is defeated at any general election following initial adopt of the tax the tax is repealed and is not collected following June 30 of the year immediately following the year in which the proposition was defeated.

If the proposition is approved the board of county commissioners, or the city or town council, as appropriate, shall by ordinance impose the tax upon the sales price for lodging services. Following proposition approval, the county or city or town must within thirty (30) days following certification of the election results and annually thereafter each year the tax is in effect, notify the department of revenue of the ordinance or resolution imposing the lodging tax and submit a list to the department of revenue of all persons selling lodging services within their respective jurisdiction. The board of county commissioners or the city or town council shall adopt an ordinance for the tax authorized. The ordinance must contain provisions outlined in W.S. 39-15-203(a)(ii)(F)(I through V).

Initiative

In any incorporated city or town operating under the commission form of government, (at the time this handbook was written, no Wyoming city or town was using this form of government) ordinances can be proposed by an initiative petition signed by ten percent of the qualified electors registered in the municipality which is filed with the city (town) clerk. If the municipal clerk determines it is legally sufficient, the petition is certified by the clerk to the governing body who must either adopt such ordinance with twenty days or submit it to a vote of qualified municipal electors. If adopted by a majority vote, such ordinance can be repealed or amended only by a majority vote of the qualified electors of the municipality (W.S. 22-23-1001 through W.S. 22-23-1004).

Referendum

An ordinance adopted by the governing body of a city or town is subject to a referendum vote of qualified municipal electors if a petition signed by ten percent (10%) of the qualified electors registered in the municipality is filed with the city (town) clerk not later than 20 days after the ordinance is first published after adoption as provided by law. To be counted the electors must be registered voters when the completed petition is submitted for verification. The petition must state set forth the ordinance in full and contain the signatures and residence addresses of persons signing the petition (W.S. 22-23-1005).

If the city (town) clerk determines the petition meets the requirements of W.S. 22-23-1005, and finds the petition to be legally sufficient, the clerk must certify it to the governing body who must suspend the ordinance (W.S. 22-23-1006).

If the governing body does not entirely repeal an ordinance subject to referendum, it shall submit the question to the electors of the municipality in the same manner as an ordinance proposed by initiative petition. If a majority of the electors voting on the question favor rejection, the ordinance shall not become effective. If a majority of the electors do not favor rejection, the ordinance becomes effective after the vote is canvassed (W.S. 22-23-1005 through W.S. 22-23-1007).

Recall

In any city or town operating under the commission form of government (at the time this handbook was written, no Wyoming city or town used this form of government), any elected officer can be removed at any time by the qualified electors pursuant to the provisions of W.S. 15-4-110. There are no recall provisions authorized by state law for elected officials in the mayor-council or manager form of government.

Oath of Office

Before entering into their duties, a person elected to a municipal office must sign and file with the city/town clerk the same constitutional oath of office as county officers (W.S. 22-23-405). The oath is as follows:

“I do solemnly swear (or affirm) that I will support, obey and defend the constitution of the United States, and the constitution of the state of Wyoming; that I have not knowingly violated any law related to my election or appointment, or caused it to be done by others; and that I will discharge the duties of my office with fidelity.” (Wyoming Constitution, Article 6, §20)

The oath must be administered by a person authorized to administer oaths as set forth in W.S. 1-2-102. Any person refusing to take the oath or affirmation forfeits their office, and any person convicted of having sworn or affirmed falsely, or of having violated said oath or affirmation, is guilty of perjury and is forever disqualified from holding any office of trust or profit within the state (Wyoming Constitution, Article 6, §21). Persons conscientiously opposed to swearing or to taking any oath may provide affirmation in lieu of oath pursuant to W.S. 1-2-103.

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CHAPTER 15

ANNEXATION, PLANNING AND ZONING

Annexation

Before any territory is eligible for annexation, the governing body of any city or town at a hearing as provided in W.S. 15-1-405 must find that:

1. Annexation of the area is for the protection of the health, safety and welfare of the persons residing in the area and in the city or town;
2. Urban development of the area sought to be annexed would constitute a natural, geographical, economical and social part of the annexing city or town;
3. Area sought to be annexed is a logical and feasible addition to the annexing city or town and the extension of basic and other services customarily available to residents of the city or town shall, within reason, be available to the area proposed to be annexed;
4. The area sought to be annexed is contiguous with or adjacent to the annexing city or town, or the area meets the requirements of W.S. 15-1-407;
5. If the city or town does not own or operate its own electric utility, its governing body is prepared to issue one (1) or more franchises as necessary to serve the annexed area pursuant to W.S. 15-1-410; and
6. The annexing city or town, not less than twenty (20) business days prior to the public hearing required by W.S. 15-1-405(a), has sent by certified mail to all landowners and affected public utilities within the territory a summary of the proposed annexation report as required in W.S. 15-1-402(c) and notice of the time, date and location of the public hearing required by W.S. 15-1-405(a).

Provisions of W.S. 15-1-402 (c) through (e) also apply for annexation actions and include the preparation of an annexation report and estimated cost of infrastructure improvements.

No tract of land or any part thereof, whether consisting of one (1) parcel or two (2) or more contiguous parcels owned by one (1) landowner or owned jointly by two (2) or more landowners as co-tenants, which comprises forty (40) acres or more and which together with the buildings or improvements situated thereon has an assessed valuation in excess of \$40,000.00 as of the current assessment for property tax purposes, may be annexed without the written consent of the landowner or landowners, unless the tract of land is situated entirely within the boundaries of the annexing city or town (W.S. 15-1-412).

TIP: *If there are questions regarding the annexation (or de-annexation) process, clerks are encouraged to consult with the city/town attorney. State statutes are available for review on the Wyoming State Legislature’s website at <http://legisweb.state.wy.us> (W.S. 15-1-402 through 15-1-423).*

Procedures

Wyoming Statutes provide that proceedings for the annexation of eligible land (refer to W.S.15-1-402 for requirements for eligibility) may be initiated either by the filing of a petition with the city (town) clerk, or by action of the governing body (W.S. 15-1-403, W.S. 15-1-404).

When a petition is filed, in accordance with W.S. 15-1-403, the municipal clerk must determine within ten days, from the date the petition is filed if the petition substantially complies with the statutory requirements. If the petition complies, the municipality shall follow the procedures required for annexation in (W.S.15-1-402, 405, and 406).

If the governing body desires to initiate the proceedings (for property not solely owned by the municipality), provisions of W.S. 15-1-404 must be followed.

Regardless of which method as referenced above was used to initiate the proceedings, the governing body must set the date, time, and place for a public hearing to determine if the conditions required for annexation (W.S.15-1-402) are satisfied. The hearing must be held not less than thirty (30) days nor more than one hundred eighty (180) days after the petition has been certified to be complete. The city (town) clerk must give notice of this hearing by publishing a notice at least twice in a newspaper having general circulation in the territory sought to be annexed and, by first certified mail, send notice to any persons owning property adjacent to or within 300 feet of the proposed property to be annexed. The first notice must be given at least fifteen (15) business days prior to the date of the public hearing and contain information as required in W.S. 15-1-405(b).

TIP: *Definition of “business day”, “landowner” and “petition” are outlined in W.S. 15-1-402. Appendix D of this Handbook includes a Publication and Notice Summary Guide relative to publication of notices for annexation actions.*

If, after the hearing, the governing body finds that the conditions required for annexation by (W.S.15-1-402) exist and the required procedures have been met, it shall by ordinance annex the territory. Upon completion of annexation procedures, the clerk must file with the county clerk a map of the area to be annexed and a copy of the ordinance approved by the governing body. If more than 50% of the land owners, or if a land owner or landowners owning more than 50% of the area to be annexed, file written objections with the clerk within twenty (20) business days after the hearing, no further action regarding the annexation of any area within the proposed annexation can be taken for two years. However, if 75% or more of the perimeter of the area to be annexed is contiguous to the city/town corporate limits, the previous sentence does not apply.

No annexation under W.S. 15-1-404 shall create an area which is situated entirely within the boundaries of the city/town but is not annexed.

If the city/town is the sole owner of any territory whether or not contiguous that it desires to annex, the governing body, by ordinance, may annex the territory without notice or public hearing and without preparing the annexation report or providing the estimates required by W.S. 15-1-402(c) and (e) and 15-1-404(a)(ii)(C) and (D). The ordinance must contain a statement that the territory is solely owned by the petitioning city/town.

The annexation becomes effective upon publication of the ordinance, unless another date is specified in the ordinance. The effective date of the annexation ordinance shall not be less than 20 business days after the public hearing. Additional information on annexation effectiveness; rights of appeal and remedies; extension of city/town ordinances, rules, regulations and services, including public utility services; de-annexation procedures, and other annexation topics are contained in W.S. 15-1-408 through 15-1-423.

TIP: *Effective January 1, 2019, mayors of First Class Cities have jurisdiction pursuant to W.S. 15-3-202(b)(ii) as may be vested in them by ordinance in all matters excepting taxation within one-half mile of the corporate limits of the city. This section of statutes states that jurisdiction shall not apply to any unincorporated area for which a county has officially adopted a comprehensive plan pursuant to W.S. 18-5-202(b). With the consent of a municipality, a comprehensive plan or a plan under W.S. 9-8-301 may delegate functions to the municipality in whole or in part and exclusively or concurrently with county performance of the functions.*

PLANNING AND ZONING

Uncontrolled growth and development of an area can create many problems for a community and its residents. The solution of such problems lies in the development and execution of well thought-out plans. Because many of these problems transcend city (town) limits and cannot be solved by municipal action alone, Wyoming law expressly authorizes cities and towns to cooperate with other units of government in carrying out any of their legal powers, privileges, duties, or functions. This cooperation can be informal or subject to resolution, ordinance, or other appropriate action, or it can be incorporated in a written agreement with such other governmental units. If it is by written agreement, the parties can create a “joint powers board” to carry out the undertaking (W.S.16-1-101 through W.S.16-110). W.S. 15-1-423 addresses Municipal Growth Management agreements.

Planning

Each city and town may have a planning commission. The number, term of the members and any other details relating to its organization and procedure shall be determined by the governing body. Every city and town can create a planning commission to formulate a master plan for guiding and accomplishing the physical development of the municipality which will best promote the general welfare, as well as economy and efficiency in the development process. In

addition to formulating and certifying a master plan to the governing body for its adoption, the planning commission makes reports and recommendations relating to the plan and the development of the city (town) to the governing body and others.

If the planning commission of any city (town) has adopted a major street plan, the governing body may establish, by ordinance, an official map of the whole or any part of the existing public streets. Provisions regarding a major street plan are contained in W.S. 15-1-508 through 15-1-512.

Detailed provisions covering the planning function are set forth in statutes (W.S.15-1-502 through W.S.15-1-512).

Subdivision Control

The owner of any land which is within or contiguous to a city or town can subdivide the land into lots, blocks, streets, avenues and alleys and other grounds under the name of “_____ addition to the city (town) of _____” and by submitting a map or plat thereof, containing information pursuant to W.S. 15-1-415(b), to the governing body for its approval. When the plat is approved by the governing body, it must be filed and recorded in the county clerk’s office.

Effective January 1, 2019, if a plat of land is adjacent to any incorporated city or town or within one mile of the boundaries of the city or town and which is not subject to regulation under and pursuant to a comprehensive plan adopted pursuant to W.S. 18-5-202(b), the plat must be jointly approved by both the board of county commissioners and the governing body of the city or town before the plat can be filed and recorded in the office of the county clerk.

If a city or town approval is not required and the plat is located within one mile of the boundaries of a First Class City or town, or within one-half mile of a town with a population of less than 4,000, the board of county commissioners, upon receipt of a plat application, must solicit comments from the governing body of the city or town relating to impacts to the city or town’s infrastructure or other development plans resulting from the proposed plat and development. The board shall consider the city/town comments that are received by the board at least twenty (20) business days prior to the scheduled final consideration of the plat proposal and shall respond in writing to the city/town about any items of disagreement. To the extent practical, the board of county commissioners shall ensure that a plat application meets the following:

1. Is consistent with any applicable city and county land use or comprehensive plan;
2. Conforms to any adopted street plan of the city, town or county;
3. Contains all areas for streets, roads and alleys that are dedicated rights-of-way;
4. Contains dedicated easements for all existing and proposed utilities, and
5. Contains any additional criteria the governing body of the city or town and the board of county commissioners agree to through a jointly adopted plan or voluntary agreement.

When executed, acknowledged and approved as provided by W.S. 34-12-103(b), the plat shall be filed and recorded in the office of the applicable county clerk.

More information on additions to cities/towns, subdivisions and platting may be found in W.S.15-1-415 and W.S. 34-12-101 through 34-12-115.

Zoning

In exercising its zoning authority (W.S.15-1-601), the governing body of any city (town) must specify the manner in which regulations, restrictions, and district boundaries are to be determined, established, endorsed, amended, supplemented, or otherwise changed. Before the governing body can adopt or change any of the regulations, restrictions, or boundaries, it must hold a public hearing at which parties in interest and other residents are given an opportunity to be heard. Not less than fifteen (15) days notice of the time and place of the hearing must be given by publication in a newspaper of general circulation in the municipality (W.S.15-1-602).

If there is a protest against a change in the regulations, restrictions or district boundaries signed by the owners of twenty percent (20%) or more of the area of the lots included in the proposed change, or of those immediately adjacent within a distance of 140 feet (the width of any intervening street or alley is excluded), the change is not effective except upon the affirmative vote of three-fourths (3/4) of all members of the governing body (W.S.15-1-603).

W.S. 15-1-610 and 15-1-611 contains information regarding enforcement of zoning regulations.

The mayor, with the consent of the governing body, shall appoint a zoning commission -- if a city planning commission already exists, it may be appointed as the zoning commission -- to make recommendations as to the boundaries of the original districts and the appropriate regulations to be enforced in such districts. The zoning commission must make a preliminary report and hold public hearings before it submits its final report to the governing body. The governing body cannot hold its public hearings or take any action until after it receives the commission's final report (W.S.15-1-604).

The mayor, with the consent of the governing body, may appoint a board of adjustment. The mayor, with consent of the governing body, may appoint the city/town planning commission as the board of adjustment. Any aggrieved person or any officer, department, board or bureau of the city or town affected by any decision of the administrative officer may appeal to the board. Decisions of the board may be reviewed by the district court. The composition of the board and its powers and duties are set forth W.S.15-1-605 through W.S.15-1-609.

Urban Renewal

The Wyoming Urban Renewal Code (W.S.15-9-101 through W.S.15-9-137) authorizes a municipality to formulate for itself a workable program utilizing appropriate private and public resources to accomplish urban renewal by re-developing or rehabilitating all, or any portion of, slum and/or blight areas, by preventing the spread of blight by diligent enforcement of housing, occupancy, and zoning standards, or by any combination of these. Detailed provisions concerning the ways in which this is to be done are set forth in the above cited statutes.

Housing Projects

Any city, town, county, or combination thereof operating jointly, may provide or assist in providing decent, safe, and sanitary housing and related facilities to persons of low income. The statutes set forth in some detail the powers, duties, and procedures to be followed in carrying out the purpose of these statutes (W.S.15-10-101 through W.S.15-10-117).

Role of Clerk

Although the statutes relating to the foregoing activities specify no particular duties for the municipal clerk, the clerk may serve as secretary for the planning commission, the zoning commission, the board of adjustment, or some combination of them.

Even though the clerk may not be directly involved in any of these activities, he/she most likely will be contacted by persons requesting information about these matters, particularly subdivision and zoning. The clerk should be knowledgeable of the general provisions covering these areas. Any interpretation of statutes, ordinances and regulations should be referred to the city/town attorney.

CHAPTER 16

WYOMING ADMINISTRATIVE PROCEDURE ACT

Introduction

The Wyoming Administrative Procedure Act (W.S. 16-3-101 through W.S. 16-3-115) provides recourse for resolving issues related to certain administrative functions. The Act states that if prescribed administrative procedures have been followed, and if there is no legal provision precluding or limiting the right of judicial review, any person aggrieved or adversely affected by the final decision of an agency can have the matter reviewed. To this end, the Act specifies that certain procedures must be followed in the taking of administrative actions, and provides for a limited review of an agency's actions by the courts. The Act is commonly referred to as the "APA".

Unless the right of judicial review is precluded or limited by a legal provision, any person aggrieved or adversely affected in fact by the final decision of any agency in a contested case, or by other action or inaction of any agency, or by the adoption of a rule by an agency, can, if the prescribed administrative procedures have been followed, have such matter reviewed by the courts

A basic purpose of the Act is to protect persons against abuses of power by an agency. The law specifies that certain procedures must be followed for the taking of administrative action and provides for a limited review of agency action by the courts.

The Act addresses the meaning of "agency", as defined in W.S. 16-3-101(b), enactment of certain rules and regulations, and contested cases involving the opportunity for hearing relative to the granting, denial, suspension, or renewal of a license.

Consult with your city or town legal counsel to determine city/town clerk responsibilities and involvement for matters involving this Act.

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CHAPTER 17

LIQUOR LICENSES AND PERMITS

Introduction

The Wyoming Department of Revenue, Liquor Division (WLD), is charged with the dual mission of being the exclusive wholesaler of alcoholic liquors (spirits and wines) in the state and monitoring alcohol control laws. WLD is also the exclusive authority to issue licenses and permits to malt beverage wholesalers, industry representatives, alcoholic liquor distillers and rectifiers (manufacturers), out-of-state wine direct shippers, imports of alcoholic liquors, and chartered transportation companies that wish to sell alcohol. WLD certifies to local licensing authorities that applicants for liquor licenses and certain permits meet statutory requirements. Wyoming is a “control state” for alcohol and the number of retail and bar and grill, and liquor licenses available for issuance by a local licensing authority is based upon a population formula set out in state statutes (Title 12). WLD is the only authority that provides official certification to local licensing authorities of the number of population restricted licenses and permits available, based upon Federal census figures or any mid-term state census conducted pursuant to W. S. 12-4-101. The following are the different types of annual liquor licenses and permits a municipal licensing authority can issue:

Licenses: Retail, limited retail (clubs) (examples: golf, veterans, fraternal or social clubs), resort, restaurant, and bar and grill.

Permits: Microbrewery, winery/satellite winery, satellite manufacturer and special malt beverage (for auditoriums, civic centers or events centers. Temporary permits include malt beverage and catering permits.

TIP: Refer to W.S. 12-2-203 for additional information regarding satellite manufacturer’s permit; W.S. 12-4-501 for malt beverage permits for the University of Wyoming; W.S. 12-4-504 for special (annual) malt beverage permits for public auditoriums, civic centers or events centers.

If authorized by state statute, a licensee may conduct an organized judging, tasting, exhibition, contest or competition of homemade beers, meads, wines or fermented fruit juices, or related events, at the premises or location where the licensee may legally serve alcoholic beverages. Review W.S. 12-10-102 and 12-4-502 and contact WLD staff for additional information.

Local Licensing Authority

Cities and towns as designated local licensing authorities, as defined in W.S. 12-1-101(a)(ix), may issue liquor licenses and permits as provided by W.S. 12-4-101 through W.S.12-4-702 and W.S. 12-2-203(g). Cities and towns may also have local ordinances, resolutions or policies for certain licensing and permitting conditions in addition to state statutes. Local authorities determine license and permit fees within the parameters set by statute. Local licensing authorities and the regulatory section of WLD share a dual responsibility in ensuring licensees

and permittees within their respective jurisdictions are in compliance with state and local liquor laws.

Local Licensing authorities may set hours of operation for alcohol sales provided that the hours of operation are uniformly applied to establishments similarly situated W.S. 12-5-101.

TIP: *A license or permit is considered a personal privilege to the holder and the term of an annual license or permit is for one year unless sooner revoked. Exception: Pro-rated licenses and permits issued to coincide with annual renewal dates set by the local licensing authority for consideration of license and permit issuance, renewals and transfers (W.S. 12-4-106).*

Application and license/permit forms for retail, limited retail, resort, restaurant and bar and grill licenses; microbrewery and winery permits (but not satellite permits); satellite manufacturer's permits, and special (annual) malt beverage permits are provided by WLD. The forms (provided in either paper or electronic format) must be used for initial, renewal and, if applicable, transfer of ownership and location applications. Contact the WLD to obtain the most current version of the forms or access through their website at www.eliquor.wyoming.gov. The WLD website also contains a checklist helpful to clerks, as well as applicants, to assist in ensuring forms are completed correctly and that applications submitted include required supporting documentation.

Upon initial and annual applications being filed with the clerk of the city/town, the applicant shall, at the time of filing, pay the clerk the licensing fee and an amount sufficient to cover the cost of publishing in the newspaper a notice informing of the application filing and public hearing pursuant to W.S. 12-4-104. (NOTE: Some municipalities have set policies requiring applicants to pay local advertising (newspaper) outlets directly for the cost of publication.)

The notice of public hearing containing information required by W.S. 12-4-104 must, if applicable, be published in a newspaper of local circulation once a week for two consecutive weeks. If the city/town has an official website, the notice must also be posted on the website (for the same timeframe). If there is no newspaper available in your community, contact the WLD for guidance in meeting the publication or posting requirement. Public hearings for renewal applications must be held no later than 30 days prior to expiration of the current license or permit.

Annual Licenses

RETAIL liquor license (W.S. 12-4-201): Allows sale of alcoholic liquors and malt beverages for use or consumption (but not for resale) on premises (within licensed building), off premise, or both. Licenses available are based upon a population formula. The annual license fee is fixed by the local licensing authority at not less than \$300.00 nor more than \$1,500.00. Application must be made on forms provided by the Wyoming Liquor Division.

TIP: A retail type liquor license have the option for both on-premise and off-premise sales. This includes package store and drive-up window areas.
Licenses are transferable in ownership and location upon prior approval by the local licensing authority.

Retail licensees are eligible to apply for catering permits (but not malt beverage permits) pursuant to W.S. 12-4-502. See the section below titled Temporary Permits for additional information. A licensee cannot store alcoholic liquor or malt beverages outside of the licensed building unless the licensee files with the WLD a written statement disclosing the exact location of the storage place (W.S. 12-5-202).

Package Store (sales for off premise consumption): Review W.S. 12-5-201(a) and W.S. 12-6-101 for location, regulation and restrictions.

Drive-In Areas (sales for off-premise consumption): Review W.S. 12-5-301 and 12-5-302 for conditions and restrictions relative to applications and operations for drive-in (a/k/a drive-up windows) areas. Drive-in areas must be approved by the licensing authority and must be adjacent or contiguous to the licensed building.

Retail Licensees with Business Operations involving Motel or Hotel Sleeping Room Accommodations: Review W.S. 12-5-201(e) for sales of alcoholic liquor and malt beverages in sealed containers from a mini-bar located within a motel/hotel room.

Retail Licensees operating a Guest Ranch (as defined in W.S. 12-1-101(a)(xxiii): Review W.S. 12-5-201(f) for sales and dispensing areas for guest ranch business operations.

Events in Licensed Buildings for Persons under the Age of 21 Years: Review W.S. 12-5-201(k) and any applicable local ordinance, rule or regulation of the licensing authority for provisions and restrictions pertaining to these types of events.

LIMITED RETAIL (special club) liquor license (W.S. 12-4-301): Allows clubs (as defined in W.S. 12-1-101(a)(iii)), such as veterans, fraternal, golf and social clubs, to sell alcoholic or malt beverages for consumption anywhere on the licensed premises (no package store or drive-ups) consumed by its members and their accompanied guests only as approved by the local licensing authority.

Limited retail licensees are not eligible to apply for catering or malt beverage permits. There is no limit as to the number of licenses that may be issued. The fee is fixed by the local licensing authority at not less than \$100.00 nor more than \$1,500.00 annually. Application must be made on forms provided by the WLD.

A political subdivision of the state may hold no more than two (2) club limited retail liquor licenses for golf courses owned, maintained or operated by that political subdivision in addition to any other license held by that political subdivision.

TIP: *W.S. 12-5-201 provides general guidance on dispensing and sales in the licensed building. W.S. 12-4-301(c) provides additional guidance for limited retail (club) licenses. W.S. 12-5-201(f) sets forth specific dispensing and consumption area requirements for restaurant licensees affiliated with golf courses and retail or restaurant licensees affiliated with a guest ranch.*

RESORT liquor license (W.S. 12-4-401 through 405): Allows sale of alcoholic liquors and malt beverages for on-premise consumption (no package store or drive-ups) within the contiguous boundaries of a resort. To qualify, an applicant must own or lease a resort complex which has an actual valuation, or the applicant has committed or expended on the complex, not less than \$1 million dollars (\$1,000,000.00), excluding the value of the land, and the complex must include a restaurant and convention facility, which convention facility shall seat no less than 100 persons. The resort complex must also include motel, hotel or privately owned condominium, town house or home accommodations approved for short term occupancy with a minimum of one hundred (100) sleeping rooms. Refer to W.S. 12-4-401(b) (iv) for applicant requirements for a ski resort facility. The annual fee is fixed by the local licensing authority at not less than \$500.00 nor more than \$3,000.00. Application must be made on forms provided by the WLD. There is no limit on the number of resort licenses that may be issued. No resort liquor license can be transferred to another location but may be transferred in ownership. Refer to W.S. 12-4-403 with regard to a resort license being used by a person with whom the licensee has contracted or subcontracted for the provisions of food and beverage services.

Pursuant to W.S. 12-5-201(f), resort liquor licensees may dispense alcoholic beverages from any location within the boundaries of the licensee's premises as approved by the licensing authority.

Resort liquor licensees are eligible to apply for catering permits (but not malt beverage permits) pursuant to W.S. 12-4-404 and 12-4-502.

RESTAURANT liquor license (W.S. 12-4-407 through 12-4-411): Allows alcoholic liquors and malt beverages to be sold, dispensed and prepared for consumption within the licensed building for on-site consumption only (no package store or drive-up). Service is provided ONLY through restaurant wait staff personnel to customers seated in designated dining areas which are adequately staffed and equipped for all food services offered by the restaurant (W.S. 12-4-410(a)). No consumption of alcoholic or malt beverages is permitted within the dispensing area(s), as approved by the licensing authority pursuant to W.S. 12-4-410(b), nor shall any person other than employees over 18 years of age be permitted to enter the dispensing area(s).

In addition to application requirements by Title 12, the applicant shall submit a valid food service permit for the applicant upon application.

Prohibitions against possession of alcoholic liquor or malt beverages by a person under the age of 21 years does not apply if (a) the person is making a delivery of the beverages pursuant to their employment; (b) the employee is serving the beverages pursuant to their employment in a restaurant which holds a license to serve the beverages, if the person is at least 18 years of age. (The term "serving" does not include the mixing or dispensing of the beverages), or the person is a liquor licensee. Additional information on minors under the age of 21 years and possession or offenses involving minors is contained in W.S. 12-6-101 through 12-6-103.

All sales of alcoholic and malt beverages shall cease at the time food sales and services cease or at the hours set by W.S. 12-5-101, or if further restricted by the licensing authority, if food sales and services extend beyond those hours. No restaurant licensee shall promote the restaurant as a bar and lounge.

Primary source of revenue from operation of the restaurant must be from food services and not from the sale of alcoholic or malt beverages. W.S. 12-1-101(a)(xiv) provides the definition of “Restaurant”. For purposes of Section W.S. 12-4-410, “room” means, as approved by the local licensing authority, an enclosed and partitioned space within a building large enough for a person to enter but not a cabinet. Partitions may contain windows and doorways, but any partition shall extend from floor to ceiling.

TIP: Restaurant licensees may permit patrons to remove one (1) unsealed bottle of wine for off-premises consumption purchase to provisions of W.S. 12-4-410(e).

There is no limit on the number of restaurant liquor licenses that may be issued. The annual license fee is fixed by the local licensing authority at not less than \$500.00 nor more than \$3,000.00. Application must be made on forms provided by WLD and, in addition to other application requirements, the applicant must submit a valid food service permit.

The transfer of location of a restaurant liquor license is allowed, and restaurant licensees are not eligible to apply for malt beverage or catering permits.

Renewal: Licensees must satisfy the licensing authority that not less than 60% of gross sales from the preceding twelve months of operation is derived from food service sales, and 40% alcoholic liquor or malt beverage sales. An annual report must be submitted with the renewal application containing information on the annual gross sales from the restaurant operation, separating the gross sales figures into two categories: (1) food service sales and (2) alcoholic and malt beverage sales.

TIP: W.S. 12-4-410(b) and W.S. 12-5-201(f) contains information on specific dispensing and consumption area requirements for restaurant licensees affiliated with golf courses and guest ranches.

BAR AND GRILL liquor license (W.S. 12-4-413): Restaurants as defined by W.S. 12-1-101(a)(xiv) may be licensed by the city or town under a bar and grill liquor license. In addition to application requirements required by Title 12, the applicant shall submit a valid food service permit for the applicant upon application. The number of bar and grill liquor licenses for cities and towns is based upon the population formula provided in W.S. 12-4-413(b). The annual license fee is fixed by the local licensing authority at not less than \$1,500 nor more than \$10,500. The license cannot be sold, transferred or assigned.

Renewal: Licensees must satisfy the licensing authority that not less than 60% of gross sales from the preceding twelve months of operation is derived from food service sales or entertainment sales, 40% alcoholic liquor or malt beverage sales. Entertainment is defined further in (W.S. 12-1-101(a)(xxvii) and by each municipality.

Annual Permits

MICROBREWERY permit (W.S. 12-4-415): Subject to restrictions imposed under W.S. 12-4-

103, excluding W.S. 12-4-103(a)(vi), the permit allows brewing of malt beverages for sale and consumption on premise and sale for limited off-premise personal consumption. Sales for off-premise personal consumption, not for retail sale, in packaging of bottles, cans or packs may not exceed an aggregate volume of 2,000 ounces per sale. On-premise sale of other malt beverages, obtained through licensed wholesale malt beverage distributors, may be authorized by the local licensing authority. A permit is transferable in ownership and location upon prior approval by the licensing authority. Pursuant to provisions contained in W.S. 12-4-415, a permit may be combined or held in conjunction with a retail, resort, restaurant or bar and grill liquor license, or winery permit.

The number of microbrewery permits that may be issued is not limited. The annual permit fee is fixed by the local licensing authority at not less than \$300 nor more than \$500. When dual ownership of a microbrewery permit and a retail, resort or restaurant liquor license exists, no additional fee is assessed for the permit (W.S. 12-4-415(b)(iv)). Application must be made on forms provided by WLD.

Under W.S. 12-4-415(c)(i) – 12-4-415(c)(iii) microbreweries may sell the brewed malt beverage products for limited off-premise personal consumption. May upon cessation of full-service restaurant operations, serve a limited menu and continue to service malt beverages authorized under the microbrewery permit. Shall not include sales of malt beverages under the microbrewery permit or sales other than food service and alcoholic beverages, in the annual gross sales report.

W.S. 12-1-101(a)(xix) defines “microbrewery” as a commercial enterprise producing not more than 50,000 barrels per year and no less than 50 barrels per year of malt beverage.

WINERY permit (W.S. 12-4-414): Subject to restrictions imposed under W.S. 12-4-103, excluding W. S. 12-4-103(a)(vi), the permit allows manufacturing of wine for sale and consumption on premise and sale for limited off premise personal consumption. Sales for off-premise personal consumption, not for retail sale, in packaging of bottles may not exceed an aggregate volume of 2,028 ounces per sale. On-premise sale of other wines, obtained through WLD, may be authorized by the local licensing authority. A permit is transferable in ownership and location upon prior approval by the licensing authority. A permit may be combined or held in conjunction with a retail, resort, restaurant or bar and grill liquor license, or microbrewery permit.

The number of winery permits that may be issued is not limited. The annual permit fee is fixed by the local licensing authority at not less than \$300 nor more than \$500. When dual ownership of a winery permit and a retail, resort or restaurant liquor license exists, no additional fee is assessed for the permit (W.S. 12-4- 414(b)(iv)). Application must be made on forms provided by the WLD.

Under (W.S. 12-4-414(c)(i) -12-4-414(c)(iii) May sell only its own manufactured wine, produced at its Wyoming winery, for limited off-premises personal consumption. May upon cessation of full-service restaurant operations, serve a limited menu and continue to serve wines authorized under the winery permit. Shall not include sales of wines authorized under the winery permit, or sales other than food service and alcoholic beverages, in the annual gross sales report.

W.S. 12-1-101 (a)(xx) defines “winery” as a commercial enterprise manufacturing wine at a single location in Wyoming.

Satellite Winery permit (W. S.12-4-414(d)): Allows local licensing authorities to issue to the holder of a winery permit, a satellite permit allowing sale of only its own manufactured wine, produced at its Wyoming winery, at up to three satellite locations within Wyoming, separate from its licensed site under the original winery permit. The local licensing authority MAY require a public hearing and payment of an additional permit fee, not to exceed \$100, regardless of the number of locations. The permit is subject to the terms and conditions of W.S. 12-4-106, the schedule of operating hours provided in W.S. 12-5- 101 (and any local ordinance), and licensed building provisions of W.S. 12-5-201. Application is made to the city/town clerk on forms provided by the local licensing authority.

W.S. 12-4-414(e) and W.S. 12-4-414(f) allows winery permit holders to make direct sales of their own manufactured wine, produced at their Wyoming winery and not listed with WLD, to retailers that can sell wine and households (consumers) in Wyoming.

TIP: Microbrewery and winery permit applicants must also submit an approved TTB Permit issued by the Federal Government before the microbrewery or winery permit can be issued and before any alcohol production can begin.

MALT BEVERAGE permit – University of Wyoming (W.S. 12-4-501): This provision of statutes allows the City of Laramie to issue a special malt beverage permit to the board of trustees of the University of Wyoming for sales of malt beverages drawn only from kegs at the student union on the campus of the University of Wyoming. The fee is \$100 per year and application must be submitted to the Laramie city clerk. The board of trustees have statutory authority to provide rules and regulations for sales under the permit.

SPECIAL MALT BEVERAGE permit - for public auditoriums, civic centers or events centers (W.S. 12-4-504): Allows a city or town to issue a special permit, with approval by the licensing authority, to any responsible person or organization for the sales of malt beverages at public auditoriums, civic center or events center. W.S. 12-4-504 also provides authority to the local licensing authority to provide rules to implement any provisions relating to the permit, including the fee to be access for the annual permit. Application is made on forms provided by the WLD.

MALT BEVERAGE PERMIT FOR RODEO ARENAS (W.S. 12-4-507): Allows the permittee to sell malt beverage products only, at events conducted on the grounds of an indoor or outdoor rodeo with a total seating capacity of over seven thousand five hundred (7,500). The malt beverages shall be served and consumed only on the grounds contiguous or immediately adjacent to the arena areas specifically designated by the permittee and approved by the licensing authority. The permit may be issued without public notice for only the dates of the event and for a fee set by rule of the licensing authority but that shall not exceed two (2) times the maximum fee of \$50 provided for twenty-four (24) hour permits under W.S. 12-4-502(e). The licensing authority may adopt specific rules to issue this permit and application is made on forms provided by the local licensing authority (i.e., city/town/*county* clerk) and must include a designation of

the event for which the application is being sought, specifying the type of event and the name of the sponsor. Additional provisions can be mutually agreed upon between the permittee and the licensing authority.

SATELLITE MANUFACTURER’S permit (W.S. 12-2-203): The satellite permit is only applicable to holders of a manufacturer’s license issued by WLD and who is a federally licensed distiller or rectifier. Under the manufacturer’s license issued by WLD, the license holder may dispense free of charge at the site identified on the manufacturer’s license samples in quantities not to exceed 1.5 ounces of their product manufactured at the site identified on the manufacturer’s license and no more than 3 ounces of samples per consumer per day. The dispensing of samples is subject to the schedule of operating hours provided in W.S. 12-5-101 (and any local ordinance), and licensed building provisions of W.S. 12-5-201.

W.S. 12-2-203(g) authorizes the local licensing authority to issue to the holder of the state manufacturer’s license, a satellite manufacturer’s permit which allows the permittee to sell product manufactured at the site identified on the manufacturer’s license at not more than two (2) satellite location within Wyoming separate from its manufacturing site under the original state permit. All products sold at a satellite location that is not the same premise location as the manufacturing license, must be obtained through WLD. The local licensing authority may require a public hearing and payment of an additional permit fee not to exceed \$100.00. The satellite manufacturer’s permit is subject to the schedule of operating hours provided in W.S. 12-5-101 (and any local ordinance), and licensed building provisions of W.S. 12-5-201.

Temporary permits

MALT BEVERAGE permit (W.S. 12-4-502): Allows issuance of a malt beverage permit for sales of malt beverages only to a responsible person or organization for sales at a picnic, bazaar, fair, rodeo, special holiday or similar public gathering at a location within the jurisdiction of the licensing authority. Malt beverages cannot be sold or consumed off the premises authorized by the permit. Permits may be issued by the local licensing authority upon application without public notice or hearing. The fee is fixed by the licensing authority at not less than \$10 nor more than \$50 per 24-hour period. Application is made on forms provided by the local licensing authority (i.e., city/town/county clerk) and must include a designation of the event for which the application is being sought, specifying the type of event and the name of the sponsor.

TIP: *Some city/town governing bodies have provided authority by ordinance to further define the permit application and approval process, including authorization for the city/town clerk to issue temporary malt beverage and catering permits on behalf of the licensing authority. Retail, limited retail (club), resort, restaurant and bar and grill liquor licenses are not eligible to apply for a malt beverage permit. To determine whether a permit is required, review W.S. 12-1-101(a)(xvi), Definitions, “sell or sale”, or contact the Wyoming Liquor Division.*

Permits issued are subject to the schedule of operating hours provided by W.S. 12-5-101 (and local ordinance), and no person or organization can receive more than a total of 12 permits for

sales at the same premises in any one (calendar) year and these permits shall not be used to operate a continuing business.

CATERING permit (W.S. 12-4-502): Allows a retail or resort liquor licensee to apply for a permit to sell alcoholic liquors and malt beverages off-premises, for sales at meetings, conventions, private parties and dinners or at other similar gatherings not capable of being held within the licensee's licensed premises within the jurisdiction of the licensing authority. Sales and consumption must be on the premises described in the permit. (Exception: Notwithstanding any other provision of W.S. 12-4-502(b), closed-container items sold at auction for the benefit of a nonprofit organization may be taken off premises.) Permits may be issued by the local licensing authority upon application without public notice or hearing. The permit fee is fixed by the licensing authority at not less than \$10 nor more than \$50 per 24-hour period. Application is made on forms provided by the local licensing authority (i.e., city/town/county clerk) and must include a designation of the event for which the application is being sought, specifying the type of event and the name of the sponsor.

Permits issued are subject to the schedule of operating hours provided by W.S. 12-5-101 (and local ordinance), and no applicant can receive more than a total of 36 permits for sales at the same premises in any one (calendar) year and these permits shall not be used to operate a continuing business.

Pursuant to W.S. 12-4-502(d), applicants for a malt beverage or catering permit having licensed premises located within a jurisdiction other than jurisdiction to which application is made, must obtain written approval of the licensing authority of that jurisdiction in which the licensed premises are located prior to filing an application for a permit.

MANUFACTURER'S OFF-PREMISES permit (W.S. 12-2-203(g)(ii)): Allows the permittee to sell product manufactured at the site identified on the Wyoming manufacturer's license at events to promote their product. The permittee can only obtain a total of twelve (12) permits per any one (1) calendar year. The permit fee is fixed by the licensing authority at not less than \$10 nor more than \$50 per 24-hour period. Application is made on forms provided by the local licensing authority (i.e., city/town/county clerk).

WINERY OFF-PREMISES permit (W.S. 12-4-414(g)): Allows the permittee to sell its own manufactured wine, produced at its Wyoming winery and not listed with the Wyoming Liquor Division, at events to promote its products. The permittee can only obtain a total of twelve (12) permits per any one (1) calendar year. The permit fee is fixed by the licensing authority at not less than \$10 nor more than \$50 per 24-hour period. Application is made on forms provided by the local licensing authority (i.e., city/town/county clerk).

AFFILIATED LIQUOR TOPICS

1. Numerous restrictions, and some exceptions, apply to minors under W.S. 12-6-101 – 12-6-103, including that a person must be at least twenty-one (21) years of age to sell, purchase or

dispense alcohol or enter or remain in an approved off-premise sales area.

2. Hours of Operation (W.S. 12-5-101). Local licensing authorities may set hours of operation for alcohol sales provided that the hours of operation are uniformly applied to establishments similarly situated.
3. Annexations; transfer of licensing jurisdiction (W.S. 12-4-602 through 12-4-603 addresses licensed premises located within an area annexed into the corporate limits of a city or town).
4. Any person who sells or manufactures alcohol in Wyoming must also obtain an appropriate Food Service Permit from the Wyoming Department of Agriculture or its local affiliate, such as the local health department. Only restaurant and bar and grill liquor license applicants must provide a Food Service Permit as part of the liquor license application requirements pursuant to W.S. 12-4-407(a) and W.S. 12-4-413(a). Contact the Wyoming Department of Agriculture or WLD for more details.
5. Any person who sells alcohol in Wyoming will need to obtain a Sales Tax License issued by the Wyoming Department of Revenue, Excise Tax Division. There can be exceptions to this requirement. Please contact the Wyoming Department of Revenue, Excise Tax Division or WLD for more details.
6. All malt beverage products for resale to consumers in Wyoming, must be obtained by license and permit holders from a licensed malt beverage wholesale distributor that can service their location pursuant to W.S. 12-2-201(b). There are exceptions to this law for sales by a microbrewery in its own facility or when a microbrewery permit is operation in conjunction with other applicable licenses.

TIP: *If you encounter any situation or reports of alleged violations of this chapter, consult with the city/town attorney, the police chief or, if applicable, Wyoming Liquor Division compliance agents*

7. Transfers of ownership; location. W.S. 12-4-601 addresses applications for transfers of ownership and/or location, if allowed under statute, involving annual licenses. Approval of a transfer shall not be given by the licensing authority if the transferring licensee has been certified by the Department of Revenue as being 60 or more days delinquent in paying sales taxes, or if proceedings are pending to suspend, revoke or otherwise penalize the original licensee. Transfer fee may not exceed \$100.00. A public hearing is required with newspaper publication of the notice and posting of the notice on the municipality's official website if one exists. (W.S. 12-4-104), advising of the hearing date, place and time. A transferred license expires on the same date as the original licensee's term.
8. Sales Tax Delinquency (W.S. 12-2-306). WLD is notified by the State Department of Revenue when an annual licensee is 60 or more days delinquent in paying sales tax. Once notified, WLD puts a hold on the sale of alcoholic liquor to the licensee until the Department of Revenue certifies that the licensee has paid all sales taxes owed. Upon receipt of certification, WLD notifies the city/town clerk of the delinquency. The licensee

is allowed a hearing before the state board of equalization if the licensee feels aggrieved by any action taken under this section of state statute. Upon notification of payment from the Department of Revenue, WLD provides written notification of the release to the licensee and the clerk, and the licensee may again purchase liquor from the Division.

Pursuant to W.S. 12-7-103, the licensing authority may suspend any license if the licensee fails to pay sales taxes and WLD has ceased sales of alcoholic liquor to the licensee. The licensee may appeal the license suspension to district court in the manner specified in W.S. 12-4-104(f). The suspension remains in effect pending a decision by the appellate court.

TIP: Pursuant to W.S. 12-10-101, no person shall possess, purchase, sell or offer to sell an alcohol without liquid device. This statute defines what constitutes “an alcohol without liquid device.”

9. Suspensions; Revocations of Licenses and Permits. If this scenario is encountered, review W.S. 12-7-101 through 12-7-201, any applicable ordinances, and discuss with city/town attorney.
10. Limited transportation liquor license. WLD (not the local licensing authority) may issue a limited transportation liquor license authorizing sales of alcoholic liquor and malt beverages by railroads and chartered transportation services (W.S. 12-2-202). A “chartered transportation service” means “contract motor carrier” as defined in W.S. 31- 18-101.

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CHAPTER 18

JOINT POWERS BOARDS; SPECIAL DISTRICTS AND OTHER PUBLIC ENTITIES

Joint Powers Boards

Overview

The purpose of sections 16-1-101 through 16-1-110, referred to as the Wyoming Joint Powers Act, of Wyoming State Statutes is to provide governmental entities the authority to cooperate and assist each other, and like entities or authorities of other states, the United States and the Eastern Shoshone and Northern Arapaho Tribes of the Wind River Reservation. This cooperation may be informal or subject to resolution, ordinance or other appropriate action, and may be embodied in a written agreement.

Jurisdiction of Joint Powers Board

Any power, privilege or authority may be exercised and enjoyed jointly with any other agency having a similar power, privilege or authority. No cost shall be incurred, debt accrued, nor money expended by any contracting party, which will be in excess of limits prescribed by law. Two or more agencies, as defined in W.S. 16-1-103, may jointly plan, own, lease, assign, sell, create, expand, finance and operate the following (the following list may not be all inclusive):

1. Water including surface water drainage, sewerage, water and soil conservation or solid waste facilities;
2. Recreational facilities;
3. Police protection agency facilities;
4. Fire protection agency facilities;
5. Transportation systems facilities, including airports;
6. Public school facilities;
7. Community college facilities;
8. Hospital and related medical facilities;
9. Courthouse and jail or administrative office facilities;
10. Public health facilities;
11. Electrical systems owned by municipalities prior to March 1, 1975;

12. Rights-of-way for electric transmission systems, oil and natural gas pipelines, telecommunications and utilities. Any right-of-way acquired under the provisions of this subsection shall follow an existing utility corridor whenever practical.

TIP: *Community Juvenile Services Boards are not necessarily a Joint Powers Board – refer to W.S. 14-9-105 for information.*

W.S. 16-1-105 contains joint agreement requirements related to the approval process and agreement content.

Board Composition and Participation

A joint powers board cannot consist of fewer than five members, all of whom shall be qualified electors of the counties in which the board operates. Members of a joint powers board shall be appointed by the governing bodies of the participating agencies in any proportion or number the bodies feel would adequately reflect their interest. The initial appointments shall be by mutual agreement with staggered terms of one, two and three years and are subject to reappointment. Thereafter, appointments for a full term shall be for three year staggered terms. Vacancies for unexpired terms shall be filled by appointment by the governing bodies of the participating agencies. Members of the board may be removed by the governing bodies of the participating agencies (W.S. 16-1-106). It is not incompatible office holding for an officer or legal representative of the municipality to be a member of a joint powers board. A joint powers board shall meet at least once every three months at the call of the chairman or within five days after an oral or written request of a majority of the board members.

The corporation has perpetual existence unless otherwise specified by the agreement providing for the corporation. No individual member of a joint powers board shall be personally liable for any actions or procedure of a joint powers board. When actually engaged in the performance of their duties, members of a joint powers board shall receive no compensation but shall be reimbursed for travel and per diem expenses as provided to state employees (W.S. 16-1-106)(b)).

Funding

Any joint project consisting of property or improvements or an interest therein to be owned by participating agencies or a joint powers board undertaken pursuant to this act may be financed in accordance with the provisions of W.S. 16-1-107 and 16-1-109.

Limitations

Although agencies are allowed to form cooperative entities, to fulfill the mission of each agency, the newly constituted entity does not relieve either original agency of any obligation or responsibility imposed upon it by law (W.S. 16-1-108(b)).

PUBLIC RECORDS AND MEETINGS

Overview

W.S. 16-12-201 through 16-12-414 is cited as the Special District Public Records and Meeting Act and relates to special districts and other specified entities, which may include Joint Powers Boards. The statutes set forth requirements pertaining to public records and meetings of the entities affected by the Act where the “principal act” is silent or unclear. Specific provisions of a “principal act” or the Wyoming Public Records Act (W.S. 16-4-201 through 16-4-205) are effective and controlling to the extent they conflict with the Act.

***TIP:** Principal act” means the statutes under which a special district or other specified entity listed under W.S. 16-12-202 is formed or is operating.*

The Act applies to the following entities as specified in W.S. 16-12-202:

Airport joint powers boards;	Recreation joint powers boards;
Boards of cooperative educational services;	Regional transportation authorities;
Cemetery districts;	Resort districts;
Conservation districts;	Rural health care districts;
Fire protection districts;	Sanitary and improvement districts;
Flood control districts;	Senior citizens’ districts;
Housing authorities;	Solid waste disposal districts;
Improvement and service districts;	Water and sewer districts;
Joint powers board;	Water conservancy districts;
Local improvement districts;	Watershed improvement districts;
Museum districts;	Weed and pest districts;
Predator management districts;	Other districts as specified by law.
Recreation districts;	

Maintaining Public Records; Public Meetings

If an entity is authorized to promulgate rules and regulations or adopt ordinances or bylaws, the documents, and any subsequent amendments, must be filed with the County Clerk for each county in which it is located. No rule, regulation, ordinance or bylaw is effective unless filed with the County Clerk. In addition, the special district or entity affected by the Act must also maintain a copy of the following documents, if the documents exist, provided that the Wyoming Public Records Act and all applicable federal statutes shall control the obligations of disclosure of those documents:

1. Adopted minutes of all meetings of the governing board and the board’s committees and subcommittees;
2. Records of meetings of the governing board and the board’s committees and subcommittees;

3. Audits, financial statements, budgets and rate schedules;
4. Election results;
5. Bylaws and policies;
6. Employment contracts with all administrators.

When consistent with the requirements of W.S. 16-12-303, special districts and entities must produce an original document upon request, and must maintain the above referenced records for public review at its business office if the office is open to the public for at least 20 business hours each week. If a special district or entity cannot maintain the records as required, the district or entity must file copies of the records with the County Clerk in the county wherein the largest portion of the district or entity lies. The documents may be in an electronic format, as specified by the County Clerk, unless otherwise specified by the County Clerk.

The district/entity must also provide by September 30th each year to the County Clerk in every county wherein the entity exists a filing specifying where documents are maintained for public view.

In addition to the requirements of W.S. 16-4-401 through 16-4-408, all public meetings of special districts and specified entities shall be held in a location accessible to the general public or made accessible to the public for purposes of the meeting, and notice of any meeting must be made in compliance with W.S. 16-4-404.

The Act also contains budgeting appropriation and expenditure requirements for special districts and entities listed in W.S. 16-12-202.

APPENDIX A

Publication and Notice Summary Guide

PUBLICATION AND NOTICE SUMMARY GUIDE		
Compiled from Wyoming Statutes: also refer to any applicable local ordinances and resolutions		
NOTE: This guide should not be considered as a substitute for consulting with legal counsel.		
Topic	Times to publish	Description/Special Conditions
ANNEXATIONS W.S. 15-1-401 through 15-1-419		Consult with the city/town attorney relative to applicable procedures when interpreting annexation statutes. Chapter 15 of this Handbook contains more detailed information on the annexation process, and city/town clerk duties.
W.S. 15-1-405 (Business days defined in W.S. 15-1-101) If annexation is pursuant to petition, public hearing must be held not less than 30 nor more than 180 days after Clerk certifies petition as complete	2	Notice of public hearing published by clerk at least twice in a newspaper of general circulation in the territory sought to be annexed; first notice must be at least 15 business days prior to public hearing date and must contain information as required in W.S. 15-1-405(b). Upon written request to clerk, clerk must provide a legal description of the area and names of persons owning property within the area.
W.S. 15-1-406 and 15-1-408	1	Clerk to publish annexation ordinance and file a copy of the ordinance with a map of the area to be annexed with the county clerk. Annexation effective upon publication, unless another date is specified within ordinance. Ordinance must not be approved less than twenty business days following public hearing.
W.S. 15-1-407		Provisions for annexation when city is sole owner of property (No notice/public hearing is required).
W.S. 15-1-410(b)		Notice to utilities (within 30 days after date of annexation).
W.S. 15-1-413 <i>et seq.</i>		Clerk's duties on city/town survey boundary reporting requirements.
W.S. 15-1-416	4	Notice of intended action for land to be excluded for construction of state highways; publish once a week for four consecutive weeks prior to public hearing.
W.S. 15-1-417 through 15-1-420		Clerk duties involving annexing contiguous cities/towns; procedures

PUBLICATION AND NOTICE SUMMARY GUIDE		
Compiled from Wyoming Statutes: also refer to any applicable local ordinances and resolutions		
NOTE: This guide should not be considered as a substitute for consulting with legal counsel.		
W.S. 15-1-421		Municipal de-annexation; procedures
ASSESSMENTS Local Improvement Districts W.S.15-6-101 through 15-6-609		Chapter 11 of this Handbook contains more detailed information on Improvement Districts
W.S. 15-6-202 Improvements initiated by the governing body (Resolution)	1	Clerk to publish notice of public hearing where the governing body will consider any remonstrances and objections to the proposed improvements; publish at least once a minimum of 15 days prior to the hearing; copy of the Resolution of intent to form the District must be mailed, postage prepaid, at least 15 days prior to the hearing to each legal owner of record of the property within the proposed District.
W.S. 15-6-203		Within 15 days from the publication of the resolution of intention, owners of property may file with the clerk their written objections to the proposed improvement.
Call for bids (involving local improvement districts) – W.S. 15-6-301 and 302, and W.S. 15-6-302	1	Following ordinance approval, if improvements are to be made by municipal contracts, clerk must call for bids by publishing notice in at least one issue of newspaper published within city/town or within county in which city/town or within the county in which the city/town is located and such other papers the governing body may designate in the ordinance.
Assessment roll (involving local improvement districts)/Public Hearing – W.S. 15-6-405	2	After assessment roll for local improvements is filed with clerk, clerk publishes notice of public hearing at least twice by two weekly publications in a newspaper of general circulation (at least 15 days must elapse between date of first publication and date of hearing). At least 15 days prior to hearing date, the clerk must mail, postage prepaid, as first-class mail, to owner of each tract assessed, a copy of the public hearing notice. Mailing of notice must be verified by affidavit or certificate and verification must be retained in the city/town records at least until all assessment and bonds have been paid in full. (Sending notices by certified or registered mail is suggested).

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Ordinance (confirming assessment roll) – W.S. 15-6-405, 15-6-406 and 15-6-409		Following ordinance approval (confirming assessment roll), clerk certifies roll to city treasurer for collection. Lien statement(s) must be filed by city with county clerk. All local assessments becoming a lien upon any property is collected by the city treasurer.
Assessments (involving local improvement districts) – W.S. 15-6-408 through 15-6-448	Check applicable statute sections	Payment, reassessments, sale of property due to delinquency, bonds, certificates, property held in trust, tax deed, creation of fund, foreclosure actions, insurance bonds for payment of improvements, corrections, work on railways and streets along railways.
W.S. 15-6-448		Refer to this statute section for provisions pertaining to improvement work involving railways and street railway companies.
SIDEWALK IMPROVEMENTS W.S. 15-6-501 through 15-6-504	2	Improvements initiated by ordinance of governing bodies of 1st class city or town having population of 4,000 or more. Proposed ordinance must be published at least 2 times, and written notices served in the manner provided by the Wyoming Rules of Civil Procedure upon owners of abutting property required. Pursuant to W.S. 15-6-501 additional specific publication and notice requirements may be the responsibility of city/town engineer.
W.S. 15-6-503		City treasurer receives payments and issues receipts for the entire special assessment on any property with interest to the date of payment. Upon receipt of any entire payment, the treasurer gives notice in writing to the proper tax authorities.
LIGHTING DISTRICTS IN BUSINESS PORTIONS OF THE MUNICIPALITY W.S. 15-6-601 through 15-6-609		District created by resolution of governing body of any city/town having population of more than 8,000.

PUBLICATION AND NOTICE SUMMARY GUIDE

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Resolution, content, requirements – W.S. 15-6-603	5	Creating special lighting district; resolution content to include public hearing date and time. Proposed resolution must be published at least 5 times in a daily newspaper of general circulation within the city/town, or in a weekly newspaper in 4 issues. Written notice must be served upon the owners of abutting property. First newspaper publication and service of notices to owners must be not less than 30 days prior to the date set for hearing objections.
Notification requirements - WY Statute 15-6-604	1	Notice signed by clerk stating resolution levying assessment is on file must be published at least once, and notice served upon owner(s) or agents of abutting property; notice must include time and place at which governing body will hear objections to final adoption of resolution. Hearing to be not less than five days after publication notice.
Resolution requirements – W.S. 15-6-604	1	A notice, signed by the clerk, stating the resolution is on file in the clerk’s office must be published at least once in a newspaper of general circulation within the city/town, and written notice must be served upon owners of abutting property. Notice shall state time and place at which the governing body will hear objections to the final adoption of the resolution. Hearing shall not be less than five days after publication of the notice.
Following adoption of Resolution – W.S. 15-6-604		Copy of adopted resolution, as certified by the clerk, must be delivered within two days after passage to the city treasurer. Treasurer, within five days after receipt, by written notice, must notify each owner of property to be assessed of the amount of assessment, purpose, tax and date of any delinquency.
W.S. 15-6-604 through 15-6-609		These statute sections contain provisions on other municipal requirements; property liens; existing remedies and discontinuation of a special lighting district.
BUDGET W.S. Titles 15 and 16 (applicable sections)		Refer to Chapters 6 and 7 of this Handbook; Budget Handbook issued by the WAM office, and the Wyoming State Auditors website for additional

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		information. Budgets required each fiscal year or every other year as provided in W.S. 16-4-104(h).
Preparation of budget – W.S. 16-4-104		Departments to submit budget requests to appropriate budget officer on or before May 1 and on or before May 15, budget officer submits proposed budget to governing body (time frame exception: W.S. 16-4- 104(h)-2 year budgets). Must include requirements of W.S. 16-1-104(a) through 16-1-104(d).
Summary of Proposed Budget – W.S. 16-4-109 (Public hearing on the budget must be held not later than the third Tuesday in June)	1	Summary of proposed budget must be entered into the minutes and governing body must publish the summary at least one week prior to the public hearing date in a newspaper having general circulation within municipality, if there is one, otherwise by posting the notice in three conspicuous places within the municipality. Copy of the publication of public hearing must furnished to the State Department of Audit.
Adoption of budget – W.S. 16-4-111 (W.S. 16-4-125(c) states: Incorporated towns not subject to the Uniform Municipal Procedures Act and public entities receiving funds from a municipality (defined in W.S. 16-4-102(a)(xiv), shall prepare budgets in a format acceptable to the director of the State Department of Audit.)		Within 24 hours of conclusion of the public hearing, the governing body must, by resolution or ordinance, adopt the budget. Per W.S. 39-13-104(k), a copy of the adopted budget, certified by the budget officer, must be furnished to the county commissioners for necessary property tax levies. W.S. 16-4-111(d) applies to entities described in W.S. 16-4-125(c) excluding incorporated cities and towns under 4,000 inhabitants. FOR INCORPORATED TOWNS: Following approval of the budget fixing the amount of taxes necessary, the town clerk under supervision of the mayor must certify the amount of money to be collected to the county clerk (W.S. 15-2-201).
Annual audits – W.S. 16-4-121 through 16-4-123		Audits must be completed not more than six months after the end of the fiscal year being audited. Copy of audit report must be submitted to director of State Department of Audit and filed with the county clerk.

PUBLICATION AND NOTICE SUMMARY GUIDE

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Receipts and Expenditures/Financial Statements	1	FOR INCORPORATED TOWNS: Immediately following end of fiscal year, governing body must publish in a newspaper, if one is published in the town, or if there is none then by posting in three or more public places, an exhibit of receipts and expenditures; must include contents as outlined in W.S.15-2-204. FOR 1st CLASS CITIES: Governing body must cause to be published a semiannual interim financial statement and an annual statement of financial condition of the city pursuant to W.S.15-3-306.
CONTRACTS FOR PUBLIC IMPROVEMENTS		Chapter 8, Purchasing, of this Handbook contains additional information
WY Statute 15-1-113		Call for bids and procedures, generally
Call for bids – W.S. 15-1-113(a)(b)(c)(d)(e)(f)	2	Call for bids must be advertised, unless contract is for professional services or purpose is emergency work or maintenance, if estimated cost exceeds \$75,000 or involves purchase or lease of a new automobile or truck. Advertisement published twice at least seven days apart. Notice must include place, date and time when bids or proposals will be received and publicly opened, place where interested persons may obtain complete specifications of work to be performed, and forms of guarantee and bid bond that will be required. A bid for a new automobile or truck under \$100,000 is not required to provide a bond or other form of guarantee.
Notice of Final Payment to Contractor – W.S. 15-1-113(h)	1	Prior to final payment on any contract for which a bond or other financial guarantee is required, notice must be published to the effect that persons having claims for labor and material furnished to contractor should present claims by the date specified for final payment. Notice must be published at least ten days prior to final payment date.

<p>Public Works and Contracts (Wyoming contractors and laborers - Preference) – Notice of final acceptance of work and payment. W.S. 16-6-101 <i>et seq.</i></p>	<p>3</p>	<p>Chapter 8, Purchasing, of this Handbook provides additional information on state law requirements involving contracts for construction, major maintenance or renovation of any public building, or other public structure, or for making any addition thereto, or for any public work or improvements. These statutes contain provisions on WY “resident preference” for contractors and preference for</p>
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The use of alternate design and construction delivery methods are contained in W.S. 16-6-701 – 16-6-708		Wyoming materials; bond requirements; final settlement of payments; contractor's statement of payment, and disputed claims involving contractors. Notice of proposed final acceptance of work and entitlement to payment must be published 40 days before final estimate is paid; publication to be once a week for three consecutive weeks. Notice content and posting of notice requirements are outlined in W.S. 16- 6-116.
MUNICIPAL ELECTIONS		Chapter 14 of this Handbook contains additional information regarding municipal elections; Title 22 of state statutes is known as the state's Election Code.
W.S. 15-11-101 <i>et seq.</i> , and 22-23-101 <i>et seq.</i>		Municipal election provisions; candidates for office generally
Municipal Elections for Mayor/Council members, generally – W.S. 22-23-101 <i>et seq.</i> and 15-11-101 <i>et seq.</i> Home Rule and Charter ordinances – Wyoming Constitution, Article 13, §1		Qualifications for office, conduct of elections, optional mode of election for towns; procedures by charter ordinance; ballot propositions, nominations and filings; certification to county clerk, not later than 68 days prior to primary election, by city/town clerk of qualified candidates for names, position and terms to be placed on primary election ballot.
Certification of ballot propositions – W.S. 22-23-204		Municipal ballot propositions to be voted on at a general election must be certified by the clerk to the county clerk not less than 60 days before the general election.
Election to change form of government – W.S. 15-11-301 and 15-11-302	4	Petition filed with city/town clerk at least 120 days prior to next regular municipal primary election. Following determination by clerk that petition is legally sufficient, mayor proclaims a special election. Proclamation published at least once a week for four consecutive weeks in a newspaper of general circulation in the city/town.

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Special Municipal Elections – W.S. 22-23-801 <i>et seq.</i>	2	See W.S. 22-23-801 for definition of “special election”. Governing body must proclaim the date of any special election and location of polling places not more than 30 nor less than 15 days prior to the election date. Proclamation must state purpose of election and be published at least twice in a newspaper of general circulation in the municipality. Advertisement may be supplemented as provided by W.S. 22-20-104(b)
Wyoming Election Code - W.S. 22-21-101 <i>et seq.</i>		Wyoming Election Code outlines general provisions and includes procedures and requirements for bond elections, initiative and referendums, campaign practices, special district elections, etc.
LIQUOR LICENSES AND PERMITS		Chapter 17 of this Handbook provides more information on liquor licenses and permits.
New/Renewal Licenses and certain Permits; Transfer of location and/or ownership – W.S. 12-1-101 <i>et seq.</i> The licensing authority may require a public hearing for Satellite Winery Permit applications – W.S. 12-4-412 (d)	2	For new and renewal applications for annual licenses and certain permits, clerk publishes notice of application with public hearing information in a newspaper with local circulation; notice must be published once a week for two consecutive weeks prior to public hearing date and, if the city/town has an official website, the notice must also be posted on the website. Transfer of ownership and/or location are treated the same as a new application.
MEETINGS OF THE GOVERNING BODY; NOTICES; MINUTES		Chapter 2, Governing Body Duties, contains additional information on meetings of the governing body.
WY Statute 15-1-105, and 16-4-401 through 16-4-408		General meetings and Wyoming Public (open) Meetings Act information.
Regular Meetings – W.S. 16-4-401 through 404(a)		In the absence of a statutory requirement, governing body provides by ordinance, resolution, bylaws or rule for holding regular meetings. Day-to-day

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		administrative activities are not subject to notice requirements (W.S. 16-4-404(e)).
Regular Meetings - Minutes W.S. 15-1-110	1	Minutes (or Record of Proceedings), including titles of all ordinances passed, of <u>all regular and special meetings</u> of the governing body must be published in a legal newspaper designated by the governing body. If a newspaper is not published in the municipality, proceedings or ordinances must be posted for at least ten days in the city/town clerk's office and in such other places as determined by the governing body. Clerk must, within 12 days after adjournment of the meeting, furnish newspaper a copy of the proceedings of the meeting. The copy must include any bill presented to governing body stating amount of bill, amount allowed, purpose of bill and claimant (W.S. 15-1-125). Newspaper must publish the copy of proceedings within nine days after receipt.
Emergency Meetings - W.S. 16-4-404(d)		"Reasonable effort" must be made to offer public notice. Any action taken is temporary. Consult with city/town attorney on whether minutes are required to be prepared and/or published.
Special Meetings – W.S. 16-4-404(b) and 15-1-105		Verbal, electronic or written notice to members of governing body and each newspaper of general circulation, radio or television station requesting the notice; issued at least eight hours prior to commencement of the special meeting. Proof of delivery of any <u>verbal</u> notice to the media may be made by affidavit of the clerk or other employee or officer responsible for distribution of the meeting notice.
Meetings - Recessed - W.S. 16-4-404(c)		Governing body may recess any regular, special, or recessed regular or special meeting to a place and time specified in an order of recess; copy of order must be conspicuously posted on or near door of place where the meeting or recessed meeting was held.

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Executive Sessions – W.S. 15-1-105 and 16-4-405		No notice required; consult with city/town attorney regarding conflicting wording contained in W.S. 15-1- 105 and 16-4-405(c) pertaining to whether a majority vote vs. 2/3 rd 's vote of governing body members present is needed for a motion to move into executive session to pass (W.S. 16-4-407 states if provisions conflict with any other statute, provisions of this act (Open Meetings Act) shall control).
Executive Sessions – Minutes – W.S. 16-4-405(b)		Minutes prepared and maintained but not published; must be confidential (sealed) except for circumstance described in W.S. 16-4-405(b). Consult with city/town attorney on procedures to utilize for “sealing” or “unsealing” minutes. Also consult with city/town attorney on presence of clerk at executive sessions (Fontaine v. Board of County Commissioners, 4P.3d 890 (WY 2000) and possible other case law).
ORDINANCES Generally – W.S 15-1-116	1	Chapter 2 of this Handbook provides more information on ordinances. Before becoming effective, every ordinance must be published at least once in a newspaper of general circulation within city/town. Newspaper must publish within nine days from date of receipt. If no newspaper published within the municipality, ordinance must be posted for at least ten days in city/town clerk's office and in such other places as the governing body determines.
Annexation – W.S. 15-1-116 and 15-1-408	1	Annexation effective upon publication of ordinance. However, annexation process may not be complete until ordinance and map is filed with county clerk (W.S. 15-1-406). Consult with city/town attorney if questions arise on when an annexation ordinance becomes effective.
Emergency Ordinances - W.S. 15-1-116(a)	1	Effective upon proclamation of the mayor and as soon as practicable, publish or post in same manner required of other ordinances.

PUBLICATION AND NOTICE SUMMARY GUIDE

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Recodification or general revision of Ordinances – W.S. 15-1-115 and 15-1-116(c)	1	Published by title only together with a brief summary of the recodification or revision; publication requirements same as for general ordinances; copy of the recodification or revision must be available to the public in the city/town clerk’s office.
Charter Ordinance	2	WY Constitution, Article 13, Section 1 - publish once a week for two weeks - not effective until 60th day after publication.
PERSONNEL (EMPLOYEE LISTING)		Chapter 2 of this Handbook provides additional information.
W.S. 15-1-110(b)(i) W.S. 15-1-110(d)	1	A city or town required to publish minutes shall separately publish within 60 days after the end of each fiscal year, the name, position, base annual salary and amount of overtime pay paid to each full-time employee and elected official. A brief statement shall accompany the salary publication specifying that all salaries are listed as base annual salaries or actual wages, any benefits such as health insurance costs, life insurance benefits and pension plans. The statement shall also indicate that the any overtime the employee earned and was paid by the city or town is included. Undercover personnel working in law enforcement do not have to be included in the salary listing.
PROPERTY WY Statute 15-1-112 (Generally); 15-1-103(a)(xii) and 15-7-301 through 15-7-305 (Parks)		Chapter 9 of this Handbook provides additional information on the sale or trade, or vacation of public property.
Parks, sale or vacation of (publicly-owned)	3	Notice of public hearing on proposed vacation of public park from public use must be published for (3) consecutive wks prior to a public hearing in a newspaper published in the county in which the city/town is located. If no newspaper is published in county, then one published in the state and of general circulation in county. Notice must contain statement of the time, place and purpose of the hearing, reason for proposed vacation and provide that any person objecting to the proposed vacation must

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		file their objections with the city/town clerk in writing at least 24 hours prior to the time of the hearing (W.S. 15- 7-301 through W.S. 15-7-305). NOTE: City/town must hold title to property for at least ten years with no substantial use of the property as a park prior to any vacation action (W.S. 15-1-103 (a)(xii)).
Property, sale or trade of (publicly owned)	3	Before sale of public property of city/town valued at \$500.00 or more, advertisement of intended sale, describing property and terms of sale must be published once a week for three consecutive weeks in a newspaper having general circulation in community announcing a public auction or calling for sealed bids for purchase of the property (W.S. 15-1-112(a)). NOTE: Governing body may first need to declare property as surplus; consult with city/town attorney. See W.S. 15-5-112(b) for other conditions that may require notice of a public hearing but not publication of notice of sale or call for bids (W.S. 15-1-112(a)(b)).
RESOLUTIONS		Need not publish unless specific purpose of resolution requires (example: Improvement districts and some bond issues); consult with city/town attorney.
TELECOMMUNICATIONS SERVICES		Chapter 7 of this Handbook contains information on telecommunication services, including franchises.
W.S. 37-15-413 (limitation on authority of political subdivision)		Notice and public hearing required per provisions of W.S. 37-15-413; consult with city/town attorney.

APPENDIX B

Sample Formats Consent Agenda

**AGENDA
CITY OF LARAMIE, WYOMING
CITY COUNCIL MEETING
CITY HALL
MARCH 6, 2018 6:30 pm**

City Council Meetings are open to the public. Requests for accommodations from persons with disabilities must be made to the City Manager's Office 24 hours in advance of a meeting.

Please be advised no additional agenda item will be introduced at a Regular City Council meeting after the hour of 9:30 p.m., unless the majority of the City Council members present vote to extend the meeting.

1. AGENDA

2. Pledge of Allegiance

3. Roll Call

4. PRE-MEETING ITEMS

4.A. PROCLAMATIONS & PRESENTATIONS

4.A.i. PROCLAMATION: Disability Awareness Month

4.B. PUBLIC HEARING

4.B.i. PUBLIC HEARING: Transfer of Retail Liquor License No. 15 to University Plaza, LLC

Documents:

PH JonaInc UniversityPlaza LL transfer 3-2018.pdf

4.C. ANNOUNCEMENTS

5. Disclosures by City Council Members

6. Consideration of Changes in Agenda and Setting the Agenda

A. MOTION BY ____, seconded by ____, that the following changes to the Agenda be approved:

B. MOTION BY ____, seconded by ____, that the Agenda be set as submitted or changed.

7. Approval of Consent Agenda

Items listed on the Consent Agenda are considered to be routine and will be enacted by one motion in the form listed below. There will be no separate discussion of these items unless a Councilor so requests, in which case the item will be removed from the Consent Agenda and

will be considered on the Regular Agenda.

MOTION BY_____, seconded by_____, that the Consent Agenda be approved and that each specific action on the Consent Agenda be approved as indicated.

8. CONSENT AGENDA

8.A. MINUTES: City Council Meetings

Action:

that Council approve the Minutes of the City Council Public Hearing and Regular Meeting of February 20, 2018 and Special Meeting and Public Hearings of February 27, 2018 and have them placed on file for public inspection.

[Johnson, CC]

Documents:

Minutes 2.20.2018 .pdf
Special Meeting Council 2-27-18.pdf
PH Minutes 2.27.2018 OO1979.pdf
PH Minutes 2.27.2018 OO1980.pdf

8.B. CEMETERY DEEDS: Cemetery Deeds for February 16-28, 2018

Action:

that the Cemetery Deeds for February 16-28, 2018 be accepted, and the Mayor and City Clerk be authorized to sign and have them recorded in the Office of the County Clerk.

[Feezer, P&R]

8.C. VOUCHERS: February 2018

Action:

that the following Resolution be adopted: BE IT RESOLVED: that all vouchers approved by the Finance Committee be allowed, warrants drawn on proper City funds in payment thereof, and the vouchers be placed on file in the Treasurer's Office subject to public inspection; and that Council authorize payment for the month-end payroll, light and gas charges, telephone charges, employee travel, other employee reimbursements, pay advances, refunds for City services, recording fees, postage, lease purchase and bond payments, self-funded employee health insurance claims, miscellaneous insurance claims, Council-approved bid items, outside attorney fees, other consulting fees, before normal City Council approval on the first Tuesday of March. These expenditures are to be paid subject to audit by the City of Laramie Finance Department.

[Brown, City Treasurer]

8.D. MINUTES: Approval of the minutes from the February 21, 2018 regular meeting of the Parks, Tree & Recreation Advisory Board.

Action:

that Council accept the minutes of the Parks, Tree & Recreation Advisory Board from the February 21, 2018 regular meeting and place them on file for public inspection:

1) To approve the minutes from the December 13, 2017 regular meeting of the Parks, Tree and Recreation Advisory Board. (Approved) 2) To approve the minutes from the January 10, 2018 regular meeting of the Parks, Tree and Recreation Advisory Board. (Approved) 3) To approve the minutes from

the January 11, 2018 special meeting of the Parks, Tree and Recreation Advisory Board. (Approved) 4) To approve Adopt-A-Trail agreements with Trihydro Corporation, the Berry Biodiversity Conservation Center and Habitech, Inc. (Approved) 5) Consideration of a rental fee waiver for events hosted by Downtown Laramie/Laramie Mainstreet Alliance at the 1st Street Plaza as indicated. (Approved) 6) Election of Chair & Vice-Chair for the Parks, Tree & Recreation Advisory Board. (Approved) 7) Consideration of project request by Trevor Thatcher to construct a bridge to provide safe crossing over the spillway at Huck Finn Pond. (Approved) 8) Consideration of a discounted rental fee request at the Laramie Ice & Event Center for Project Graduation to be held on May 25 & 26, 2018 (10:00pm to 4:00a.m.). (Approved) 9) Consideration of a discounted rental fee request at the Laramie Community Recreation Center for a Laramie High School Volleyball Tournament fundraising event to be held on March 24 & 25, 2018. (Approved) 10) Presentation of Parks & Recreation Department General Fund Equipment, General Fund Capital, Major Capital and Operational Budget Requests. (No Action) 11) Recreational Programs Presentation. (No Action) **[Feezer, P&R]**

Documents:

PTR Advisory Board Minutes 2.21.18 Cover Sheet.pdf
Advisory Board Minutes February 21, 2018.pdf

8.E. BID AWARD: Consideration of bid for 2017/2018 Full size ATV for replacement of Mosquito Control Division Unit 795.

Action:

to award the bid for one 2017/2018, Full size ATV for replacement of Mosquito Control Division Unit 795 to Frontier Cycles of Laramie, Wyoming, in an amount not to exceed \$6,986.00, and authorize the Mayor and Clerk to sign.

[Feezer, P&R]

Documents:

Mosquito Control ATV Replacment Bid Cover Sheet.pdf
Mosquito Control ATV Replacement Bid Documents.pdf

8.F. LICENSE: Transfer of Retail Liquor License No. 15 to University Plaza, LLC.

Action:

to approve the Application for Transfer of Retail Liquor License No. 15, from Jona, Inc to University Plaza, LLC, location 2415 Grand Ave, Laramie, WY for the licensing term March 6, 2018 thru May 07, 2018, and authorize the Mayor and City Clerk to sign.

[Johnson, CC]

Documents:

Cover Sheet LLTransfer-UniversityPlaza, LLC 3-6-2018.pdf
LL TransfUniversityPlaza 3-6-18.pdf

8.G. RESOLUTION: Resolution 2018-23, appointing one member to the Traffic Commission

Action:

to approve Resolution 2018-23, appointing Will Hutchinson to the Traffic Commission with a term expiring October 31, 2019 and authorize the Mayor and Clerk to sign the Resolution.

[Smith, PW]

Documents:

Cover Sheet Res 2018-23 Traffic Commission Hutchinson.pdf
Resolution 2018-23 Appointing Will Hutchinson to TC.pdf

8.H. QUITCLAIM DEEDS: Acceptance of Quitclaim Deeds conveying property to the City of Laramie in accordance with Enrolled Ordinance No. 1664.

Action:

that Council accept the Quitclaim Deeds from Chimenti Investments LLC and Brandon Chimenti conveying property to the City of Laramie in accordance with Enrolled Ordinance No. 1664 and direct the Clerk to record the Deeds with the Albany County Clerk

[Jordan, CM]

Documents:

Cover Sheet.pdf
Chimenti Investments Quitclaim Deed-signed.pdf
Brandon Chimenti Quitclaim Deed -signed.pdf
Exhibit.pdf

8.I. ORDINANCE: Original Ordinance No. 1979, annexing approximately 5.76 acres of property located in unincorporated Albany County, located at 2931 Soldier Springs Road.

Third and Final Reading. (Introduced by McKinney)

Action:

to approve Original Ordinance No. 1979 on third and final reading, annexing approximately 5.76 acres of property located in unincorporated Albany County, located at 2931 Soldier Springs Road; based on findings of fact and conclusions of law; and authorize the Mayor and Clerk to sign the Ordinance.

[Jordan, CM]

Documents:

CC Cover Sheet 3rd Reading.pdf
Annex Ord 3rd reading.pdf
Attachment A.pdf
A-17-01 Staff Report.pdf

8.J. ORDINANCE: Original Ordinance No. 1980, rezoning a property from County Commercial to C2 (General Commercial).

Third and Final Reading (Introduced by McKinney).

Action:

to approve Original Ordinance No. 1980 on third and final reading to rezone the property at 2931 Soldier Springs Road from County Commercial to C2 (General Commercial) based on findings of fact and conclusions of law; and authorize the Mayor and Clerk to sign the Ordinance.

[Jordan, CM]

Documents:

CC Cover Sheet 3rd Reading.pdf
Ordinance 3rd Reading.pdf
Attachment A.pdf
Z-17-03 PC Staff Report.pdf

8.K. SCHEDULE MEETINGS:

Action:

that Council schedule the following meeting(s):

1. WORK SESSION: March 8, 2018, 4:00 p.m. - Joint Meeting with the Albany County Commissioners and Rock River Town Council regarding Specific Purpose Tax Renewals.

9. REGULAR AGENDA

10. Spring Creek Village Addition Preliminary Plat
[Jordan, CM]

Documents:

Cover Sheet.pdf
MSP Alignments.pdf
County Ownership Maps 2013 and 2014.pdf
Public Comment - Jim Field.pdf
Applicant Handout.pdf
Modified Planning Commission Staff Report.pdf
Public Comment - Karen Valentine-Pond.pdf
2-20-2018 Applicant Handout.pdf

11. Original Ordinance No. 1978, amending various sections of Title 15 of Laramie Municipal Code for the purposes of amending franchise utility installation standards, public improvement requirements, preliminary plat expiration, landscaping requirements, lot consolidation criteria, alley development requirements, central gathering area requirements, and fence standards; and correcting typographical errors and incorrect cross references.

Third and Final Reading. (Introduced by Gabriel)

[Jordan, CM]

Documents:

Cover Sheet.pdf
Original Ordinance 1978.pdf
Modified Planning Commission Staff Report.pdf
LCBA Support Email.pdf
Cirrus Sky.png
Public Comment - Brett Glass.pdf

12. Reconsideration of approval of Resolution 2018-17, authorizing a \$11,666 cost share with the Laramie Regional Airport to aid in the cost of upgrading internet service to the Professional Airpark and Research Center, Cowboy Aviation, the terminal and administrative buildings.

[Jordan, CM]

Documents:

Agenda Cover ~ RECONSIDERATION LRA request .pdf

13. Original Ordinance No. 1981, amending the zoning district map of the City of Laramie, Wyoming, by rezoning 5 lots located on Crystal Court from LM (Limited Manufacturing) to B1 (Limited Business) with ROB (Residential overlay for Business), and establish the ROB (Residential Overlay for Business) overlay on 1 parcel of land.

Introduction and First Reading

[Jordan, CM]

Documents:

CC Cover Sheet 1st Reading.pdf

1st Reading Ordinance.pdf

Z-17-04 PC Staff Report.pdf

14. Resolution 2018-20, adopting Policy Goals and Objectives for the City of Laramie, WY 2018 and 2019.

[Jordan, CM]

Documents:

CoverRes. 2018-20 GoalsMarch6.pdf

Res2018-20A GoalsMar.6.pdf

Res2018-20B Goals.pdf

18GoalsNotes.pdf

15. Public Comments on Non-Agenda Items

(Members of the public may address the City Council on items not on the printed Agenda. Please observe the time limit of five (5) minutes.)

16. Consideration of future Council work session topics

Documents:

Future Work Session Topics 3-6-2018.pdf

Upcoming Meetings 3-6-2018.pdf

17. Adjournment to Executive Session regarding Litigation, WY § 16-4-405(a) (iii).

MUNICIPAL BUILDING
2101 O'Neil Avenue
Cheyenne, WY 82001
<http://www.cheyennecity.org>

CITY COUNCIL MEETING
COUNCIL CHAMBERS
6:00 P.M.

AGENDA

FEBRUARY 12, 2018

1. CALL MEETING TO ORDER.
2. CALL ROLL.
3. PLEDGE OF ALLEGIANCE.
4. CONSENT AGENDA.

(All agenda items listed with the designation of [CA] are considered to be routine items by the governing body and will be enacted by one motion. There will be no separate discussion on these items unless a member of the governing body so requests and support by two other members is received. Any item removed from the Consent Agenda will be considered in its normal sequence on the agenda.)

ACTION: _____

5. [CA] MINUTES FROM REGULAR MEETING OF THE GOVERNING BODY ON JANUARY 22, 2018.

ACTION: Approve _____

6. VOUCHERS.

ACTION: _____

7. ORDINANCE – 3rd READING – Annexing to the City of Cheyenne, Wyoming, a portion of Sections 8 and 9, all of the W½ Section 14, a portion of the E½ E½ of Section 17, and all of Sections 15, 16, and 21; Township 13 North, Range 66 West of the 6th P.M., Laramie County, Wyoming (located to the southeast of the intersection of E. College Drive and Avenue C). (POSTPONED FROM 01/22/2018) (PUBLIC SERVICES COMMITTEE)

ACTION: _____

8. ORDINANCE – 3rd READING – Annexing to the City of Cheyenne, Wyoming, all of Tracts 31 and 32 and that portion of James Drive intervening; and a portion of Tract 39, Hill Heights Addition; and adjacent portions of Gysel Place and Van Buren Ave.; situated in Section 23, Township 14 North, Range 66 West, of the 6th P.M., County of Laramie, State of Wyoming (located east of and adjacent to Van Buren Avenue, north of Dell Range Boulevard. (PUBLIC SERVICES COMMITTEE)

ACTION: _____

9. ORDINANCE – 3rd READING – Pursuant to Section 2.2.1 Zoning Map Amendments, Section 5.1.2 Zoning Districts Established, and Section 5.1.3 Official Zoning Map, of the Unified Development Code, changing the zoning classification from County AR Agricultural Residential to MR Medium-density Residential and MUB Mixed-use Business Emphasis for all of Tracts 31 and 32; and a portion of Tract 39, Hill Heights Addition; situated in Section 23, Township 14 North, Range 66 West, of the 6th P.M., County of Laramie, State of Wyoming (located east of and adjacent to Van Buren Avenue, north of Dell Range Boulevard). (PUBLIC SERVICES COMMITTEE)

ACTION: _____

10. ORDINANCE – 3rd READING – Vacating the 16-foot alley situated in Block 329, Original City, and Federal Court located in Block 329, City of Cheyenne, Laramie County, Wyoming. (PUBLIC SERVICES COMMITTEE)

ACTION: _____

11. ORDINANCE – 3rd READING – Vacating that portion of the 16-foot alley right-of-way lying east of the Burlington Northern Railroad Spur Track right-of-way in Block 412, adjacent to Lots 1 thru 8, and 16 thru 22, Block 412, Original City, City of Cheyenne, Laramie County, Wyoming. (PUBLIC SERVICES COMMITTEE)

ACTION: _____

12. ORDINANCE – 3rd READING – Pursuant to Sections 1.1.6 and 2.4.1 of the Cheyenne Unified Development Code (UDC), amending Sections 1.4.4.a and c, Section 5.1, Table 5-1, Section 5.7.5, and Table 7-10 of the UDC to rename and clarify the definition for group dwelling, to combine and clarify the definitions for adult care – assisted living and adult care – nursing home land uses, combining assisted living facilities, nursing homes and group housing for specific use standards, clarifying where assisted living/nursing homes would be permitted, and adding residential and nonresidential zoning districts where group housing would be allowed as a conditional use. (PUBLIC SERVICES COMMITTEE)

ACTION: _____

13. ORDINANCE – 1st READING – Amending Section 10.52.200, Recreational vehicle, trailer-defined – Parking permitted in certain places, of Chapter 10.52, Stopping, Standing and Parking Generally, of Title 10, Vehicles and Traffic, of the Code of the City of Cheyenne, Wyoming. (SPONSOR – MR. CASE)

ACTION: Refer to Public Services Committee

14. RESOLUTION – Announcing the City of Cheyenne’s intent to expend funds to enhance the Depot Plaza by constructing a water feature for economic development purposes, to include a historically important statue. (POSTPONED FROM 01/22/2018) (FINANCE COMMITTEE)

ACTION: _____

15. RESOLUTION – Authorizing the Mayor and the City Clerk to sign a Final Plat for Whitney Ranch, 1st Filing, a replat of all of Tracts 31 and 32 and that portion of James Drive intervening; and a portion of Tract 39, Hill Heights Addition, situated in Section 23, Township 14 North, Range 66 West, of the 6th P.M., City of Cheyenne, County of Laramie, State of Wyoming (located east of and adjacent to Van Buren Avenue, north of Dell Range Boulevard). (PUBLIC SERVICES COMMITTEE)

ACTION: _____

16. [CA] RESOLUTION – Authorizing the submission of an application to the Wyoming Business Council Business Ready Community Grant and Loan Program for a \$3,000,000.00 Community Readiness Grant, and up to \$3,000,000.00 in Business Ready Community loan funding, for the Happy Jack Road/F.E. Warren Air Force Base Enhanced Use Lease Infrastructure Project. (FINANCE COMMITTEE)

ACTION: Adopt

17. [CA] RESOLUTION – Authorizing the submission of a loan application to the Wyoming Business Council Business Ready Community Grant and Loan Program, providing for repayment and affirming compliance with applicable state laws and regulations, for a loan in an amount not to exceed \$3,000,000.00 for the Happy Jack Road/F.E. Warren Air Force Base Enhanced Use Lease Infrastructure Project. (FINANCE COMMITTEE)

ACTION: Adopt

18. RESOLUTION – Authorizing submission of a Federal Mineral Royalty Capital Construction Account Grant application to the State Loan and Investment Board on behalf of the Governing Body of the City of Cheyenne to purchase cameras for Cheyenne’s police cars, police body cameras, micro cameras and necessary support items. (FINANCE COMMITTEE)

ACTION: _____

19. [CA] RESOLUTION – Re-appropriating the Fiscal Year 2018 budget of the City of Cheyenne according to the provisions of W.S. §16-4-112 & 16-4-113. (FINANCE COMMITTEE)

ACTION: Adopt

20. [CA] RESOLUTION – Supporting the appropriation of state funding for Wyoming cities and towns during the 2018 budget session of the Wyoming Legislature. (FINANCE COMMITTEE)

ACTION: Adopt

21. [CA] RESOLUTION – Authorizing the Cheyenne Police Department to apply for Office on Violence Against Women OVS-2018-13827 improving criminal justice responses to sexual assault, domestic violence, dating violence and stalking program (formally known as the grants to encourage arrest policies and enforcement of protection orders program). (FINANCE COMMITTEE)

ACTION: Adopt

22. [CA] RESOLUTION – Supporting the Continuing Education Program offered by the Wyoming Association of Municipalities and Local Technical Services a/k/a Leadership Training Services, and authorizing the execution of an amended Contract for Services regarding the provision of such services. (SPONSOR – MR. WHITE)

ACTION: Refer to Finance Committee

23. PRELIMINARY PLATS/PRELIMINARY ZONE CHANGES:

a) [CA] Sweetgrass 1st Filing Preliminary Plat Subdivision consisting of unplatted lands situated in the NW¼ of Section 16 Township 13 North, Range 66 West, 6th P.M., City of Cheyenne, Laramie County, Wyoming.

ACTION: Refer to Public Services Committee

24. LEASES/CONTRACTS/LEGAL:

a) Agreement between the City of Cheyenne and SAA Enterprises – Steve Avila, for the purpose of sponsoring the CABA (Continental Amateur Baseball Association) 18U Wood Bat World Series during the summer of 2018. (FINANCE COMMITTEE)

ACTION: _____

- b) [CA] Professional Services Agreement between the City of Cheyenne and HDR Engineering, Inc., Cheyenne, Wyoming, for construction management services in support of the Christensen Road Overpass and Corridor Project. (1% Specific Purpose Sales and Use Tax) (FINANCE COMMITTEE)

ACTION: Approve (in an amount not to exceed \$772,767.00)

- c) Sweetgrass PUD (Planned Unit Development) annexation - Master Annexation Agreement between the City of Cheyenne and Sweetgrass Land Co., LLC; Lummis Livestock Company, LLC, and Arp and Hammond Hardware Company, for an area commonly known as the Sweetgrass Annexation, being a portion of Sections 8 and 9, all of the W½ Section 14, a portion of the E½ E½ of Section 17, and all of Sections 15, 16, and 21; Township 13 North, Range 66 West of the 6th P.M., Laramie County, Wyoming. (PUBLIC SERVICES COMMITTEE)

ACTION: _____

- d) Professional Services Agreement between the City of Cheyenne and Novo Benefits, LLC, for employee benefits consulting and brokerage services. (FINANCE COMMITTEE)

ACTION: _____

- e) [CA] Temporary Construction Easement Agreement with George M. Zak and Leslie S. Zak, for the deposit of spoil dirt in conjunction with the Christensen Road Railroad Overpass and Corridor Project. (1% Specific Purpose Sales and Use Tax)

ACTION: Refer to Finance Committee

- f) [CA] City of Cheyenne, Wyoming, Christensen Road Right-of-Way Purchase Agreement with Holly L. Bruegman. (1% Specific Purpose Sales and Use Tax)

ACTION: Refer to Finance Committee

25. CONSIDERATION OF BIDS/REQUESTS FOR PROPOSALS:

- a) Consideration of Bid #E-13-18 for furnishing one new mobile observation platform for the Cheyenne Police Department. (Homeland Security Grant) (FINANCE COMMITTEE)

ACTION: _____

- b) [CA] Consideration of RFP-14-18 for the new site of the City of Cheyenne Municipal Court.

ACTION: Refer to Finance Committee

c) [CA] Consideration of Bid #S-7-18 for a contract between the City of Cheyenne, Public Works Department, and W.L. Contractors, Inc., Arvada, Colorado, for the 2018 Traffic Signal Installation Project. (2015-2018 1% Sales Tax)

ACTION: Refer to Finance Committee

d) [CA] Consideration of Bid #S-9-18 for a contract between the City of Cheyenne, Planning and Development Department, and American Contracting of Wyoming, LLC, Cheyenne, Wyoming, for the Warren Rest House Restoration, Phase 2, Project.

ACTION: Refer to Finance Committee

e) [CA] Consideration of Bid #S-8-18 for a contract between the City of Cheyenne, 1% Construction Division, and Reiman Corp. and STC Construction Co., Inc., a Joint Venture, Cheyenne, Wyoming, for the FY 2018 Miscellaneous Concrete Project. (2015-2018 1% Sales Tax)

ACTION: Refer to Finance Committee

26. CHANGE ORDERS/CONTRACT MODIFICATIONS:

a) [CA] Contract Modification No. 2 to Contract No. 6498 between the City of Cheyenne and DHM Design Corporation, Denver, Colorado, for additional groundwater sampling and analysis for West Edge Engineering Design Services / Civic Center Commons Project. (FEMA Pre-Disaster Mitigation Grant funds) (FINANCE COMMITTEE)

ACTION: Approve (in an amount not to exceed \$2,400.00)

b) [CA] Contract Renewal No. 1 to Contract No. 5980 between the City of Cheyenne and Warren Federal Credit Union for limited public right-of-way use for fiber optic communications system installation.

ACTION: Refer to Finance Committee

c) [CA] Contract Renewal No. 1 to Contract No. 6292 between the City of Cheyenne and the Girl Scouts of Montana and Wyoming for the lease of 45.93 acres of City- owned real property.

ACTION: Refer to Finance Committee

d) [CA] Contract Modification No. 1 to Contract No. 6625 between the City of Cheyenne and Western Research and Development, Ltd., for additional design services for the FY 2017-18 On-Call Traffic Engineering Services Project. (2015-2018 1% Sales Tax)

ACTION: Refer to Finance Committee

27. ANNOUNCEMENTS/REPORTS/MOTIONS:

- a) Appointment of Amy M. Allen as City Engineer for the City of Cheyenne.

ACTION: _____

- b) [CA] Consideration to purchase Odyssey fareboxes for the Cheyenne Transit Division, and authorizing the Mayor and City Clerk to execute a Professional Services Agreement between the City of Cheyenne, Transit Division, and Genfare, Elk Grove Village, Illinois, in conjunction with the purchase. (FINANCE COMMITTEE)

ACTION: Approve (in an amount not to exceed \$205,777.20)

- c) [CA] Consideration to purchase, by Community Recreation and Events Department, a new Montrose with screen restroom building for Myler Park from CXT, Inc., Spokane Valley, Washington. (CDBG grant funds)

ACTION: Refer to Finance Committee

- d) Announcement of Public Hearing to be held Monday, February 26, 2018 at 6:00 p.m. in City Council Chambers, 2101 O'Neil Avenue, Cheyenne, Wyoming, for renewal applications for existing City liquor licenses and permits (retail, restaurant, limited retail, resort, bar and grill licenses and microbrewery and satellite distillery permits) filed with the City Clerk's office.
- e) Announcement that due to the Presidents' Day Holiday on Monday, February 19, 2018, regularly scheduled City Council Committee meetings will instead be held in the Municipal Building, 2101 O'Neil Avenue, Room 104, Cheyenne, Wyoming, as follows: Finance Committee will meet Tuesday, February 20, 2018 at 11:00 a.m. and Public Services Committee will meet Wednesday, February 21, 2018 at Noon.

28. OTHER BUSINESS: _____

29. ADJOURN.



CITY COUNCIL AGENDA
COUNCIL CHAMBERS, 201 E. 5TH STREET
CITY OF GILLETTE
Tuesday , March 20, 2018
7:00 PM

A. Call to Order.

B. Invocation and Pledge of Allegiance.

1. Invocation led by Bishop Clark Sanders of the Church of Jesus Christ of Latter Day Saints.
2. National Anthem Performed by Twin Spruce Junior High Students Led by Mr. Nathan Searcy

C. **Approval of General Agenda.**

D. **Approval of Consent Agenda.**

(All items listed will be enacted by ordinance unless a request is made for discussion by any member of the audience or Council, in which case, the item(s) will be removed from the Consent Agenda and considered separately following this portion of the agenda).

1. Minutes

- a. **Pre-Meeting - March 6, 2018**
- b. Regular Meeting - March 6, 2018
- c. Executive Session - March 6, 2018
- d. 1% Listening Session - March 8, 2018
- e. Work Session - March 13, 2018

2. Ordinance 3rd Reading - Consent

3. Ordinance 2nd Reading - Consent

4. Bills and Claims

- a. Bills and Claims

Staff Reference: Michelle Henderson, Finance Director

5. Other - Consent

E. Approval of Conflict Claims.

1. Council Member Carsrud - \$21.50

Staff Reference: Michelle Henderson, Finance Director

2. Mayor Carter-King - \$23.73

Staff Reference: Michelle Henderson, Finance Director

3. Council Member Kuntz - \$14.98

Staff Reference: Michelle Henderson, Finance Director

F. Comments.

1. Council
2. Written
3. Public
4. other - Comments

G. Unfinished Business.

1. Ordinance **2nd Reading.**

- a. **An** Ordinance Amending Sections 18-6, 18-7, 18-10(8), 18-10(G) And 18-11 of the Gillette City Code to Increase Compaction Test Fees and Clarify Certain Language.

Staff Reference: Anthony Reyes, City Attorney

2. Ordinance 3rd Reading.

3. other.

H. New Business.

1. Minute Action

- a. Council Consideration of a Street Closure on Gillette Avenue Beginning at the South Corner of Big Lost Meadery, North to 1st Street, on Saturday, June 30th from 6:00 a.m to 9:00 p.m for a Wyoming Gravel Grinder Cycling Event, that will Include an Open Container Permit, Requested by David Bauer.

Staff Reference: **MAP.** Michelle Henderson, Finance Director

- b. Council Consideration of a Street Closure on Warlow Drive Beginning Just West of the Aquatic Center Entrance, West to N. Osborne Avenue, and Between Lakeside Drive and Warlow Drive on Brooks Avenue, on Saturday, June 9th from 11:00 a.m. to 12:00 p.m., for the Children's Memorial Walkway Remembrance Ceremony, Requested by the Mayor's Art Council.

Staff Reference: **MAP** - Michelle Henderson, Finance Director

- c. Council Consideration of a Bid Award for the Pavement Management System 2018 Schedule B Project to Simon Contractors, in the Amount of \$1,163,402.85 (1%Project).

Staff Reference: **MAPMDEO** - Heath VonEye P.E., Development Service Director

- d. Council Consideration of a Professional Service Agreement for Construction Management Associated with the Pavement Management Systems 2018 Schedule B Project, with KLJ, Inc., in the Amount of \$119,579.00 (1%Project).

Staff Reference: Heath VonEye P.E., Development Services Director

- e. Council Consideration of a Bid Award for the Madison Water Load-out Facility and Pine Ridge Tank Drain Project to Hot Iron, Inc., in the Amount of \$258,230.57.

Staff Reference: **MAP** - Heath VonEye, P.E., Development Services Director

- f. Council Consideration of a Professional Services Agreement for Construction Management Services Associated with the Madison Water Load-out Facility and Pine Ridge Tank Drain Project with Morrison-Maierte, in the Amount of \$40,987.00.

Staff Reference: **MAP**- Heath VonEye P.E., Development Services Director

2. Ordinance 1st Reading.

3. Appointments

I. Public Hearings and Considerations

1. A Public Hearing Regarding Proposed Ordinance to Amend Chapter Seventeen of the Gillette City Code to Adjust Wastewater Rates, Revise Customer Service Charges and Modify Other Aspects of the City's Public Utility Ordinance.

Staff Reference: Anthony Reyes, City Attorney

2. An Ordinance to Amend Chapter Seventeen of the Gillette City Code to Adjust Wastewater Rates, Revise Customer Service Charges, and Modify Other Aspects of the City's Public Utility Ordinance.
Staff Reference: Anthony Reyes, City Attorney
3. Council Consideration of a Resolution Approving and Authorizing Customer Service Fees for the City of Gillette Public Utilities.
Staff Reference: Anthony Reyes, City Attorney

J. Executive Session

K. Adjournment

MAYOR

Louise Carter-King

COUNCIL MEMBERS BY WARDS

WARD 1

Dan Barks
Shawn Neary

WARD 2

Billy Montgomery
Timothy Carsrud

WARD 3

Robin Kuntz
Shay Lundvall

www.gillettewy.gov

