

CITY, COUNTY & LOCAL GOVERNMENT LAW CERTIFICATION EXAM
SAMPLE QUESTIONS

Disclaimer: The following questions are provided to the public as examples of the types of questions that appear on City, County & Local Government certification exams, as well as the subject areas that are tested. All questions have been pulled from previous exams and were correct and factual at the time of administration; however, the City, County & Local Government Law Certification Committee acknowledges that some questions and/or answers may no longer be accurate due to the passage of time since administration. None of these questions will appear on future exams.

Public Sector Liability

1. Beautiful City operates a Fire Rescue Explorer Program for children ages 14-16. In order to participate in the program, the child's parent is required to sign a hold harmless agreement in favor of the City for any negligence of the City. If a child is injured and the parent sues the City, how should the City be advised regarding the hold harmless agreement?
 - a. The agreement is void as against public policy.
 - b. The agreement is enforceable as an explorer program is a commonplace child-oriented community or school-supported activity for which a parent may waive their child's litigation rights.
 - c. The agreement is void as against sovereign immunity.
 - d. The agreement is enforceable as an explorer program is otherwise immune from these types of claims.

Answer: B

Sovereign Immunity

2. The city of Miami Beach controls the beach area within the city limits pursuant to an agreement with the State of Florida, owner of the Beach. Under the terms of the agreement the city provides public restrooms, picnic tables and parking areas. The beach has not been designated by the city as a public swimming area and thus no lifeguards are provided although the city is aware that people use the area for swimming.

A guest in a local hotel ventured out onto the beach and while there rented a beach chair and umbrella from a concessioner licensed by the city. The guest decided to go for a swim and was dragged under by prevailing rip currents and drowned. Subsequently a wrongful death action was brought by the estate against the city, who after responding to the suit moved for summary judgment. At the hearing on the motion the trial court should:

- a. grant the summary judgment motion because the city does not have a duty of care to warn beachgoers of naturally occurring rip currents when it did not have control over the area and does not take express action to designate it a swimming area.
- b. grant the summary judgment motion because the city has the discretionary authority to operate or not operate swimming facilities and is immune from suit on that discretionary question.
- c. deny the summary judgment motion because the City controls the beach area and, therefore, had a duty of care to warn of dangers that were known or should have been known, and is not shielded from liability based on sovereign immunity.
- d. deny the summary judgment motion because it was reasonably foreseeable that people would use this area for swimming.

Answer: C

Civil Rights

3. In 2000, City implemented an ordinance which prohibited City residents from holding a business tax receipt for an eating establishment unless the applicant was Scandinavian, because the City Commission believed "only Scandinavians knew how to cook." In 2000, just after the ordinance was enacted, Resident Ricardo, of Italian decent, applied for and was denied a business tax receipt for a restaurant based on the ordinance. In 2005, Resident Ricardo filed suit against the City under Section 1981 and Section 1983, for the denial of the business tax receipt. Resident Ricardo's claims are barred:
- a. by the statute of limitations.
 - b. as municipalities cannot be sued under Section 1983.
 - c. by the doctrine of qualified immunity.
 - d. by the United States Constitution.

Answer: A

Public Finance

4. City adopted a road impact fee, setting its rate at the highest in Florida's history. County wants to adopt the same rate. Under Florida Statutes §163.31801, "Florida Impact Fee Act," what is County unable to do when it adopts its new rate for roads impact fees?
- a. Calculate the impact fee based on the most recent and localized data.
 - b. Charge an administrative fee for the collection of impact fees that exceeds its actual costs of collection to pay for the next impact fee study.
 - c. Adopt its ordinance with more than 90 days notice before the effective date of imposition of a new or amended impact fee.
 - d. Create a separate accounting fund to account for the revenues and expenditures of the road impact fee.

Answer: B

Procurement and Public Contracts

5. You represent an asphalt supplier to a subcontractor to a contractor for Pretty DOT in Pretty County, Florida. Pretty has paid the contractor, and supposedly, the contractor paid the subcontractor, in full and received a general release in favor of itself and the surety. However, the subcontractor did not pay your client. The contractor and subcontractor have filed for bankruptcy protection. Your client wants payment from the performance bond, even though your client failed to comply with all of the notice and time requirements contained in section 255.05(2) when perfecting these claims. You advise your client:
- a. Statutory notice and time limitation provisions may be enforceable, even where bond at issue does not contain reference to those provisions as required by statute.
 - b. The bond should be treated as a “common law bond,” subjecting the bond to the more general statute of limitations because the bond did not contain the notice essential by statute.
 - c. The statute only applies to state buildings, and not roads constructed by counties.
 - d. To sue Pretty County, because they should have caught the mistake during their procurement process.

Answer: A

Land Use and Zoning

6. Prior to purchasing a vacation home in Key West the property owner approached the city attorney to be sure the city would allow the unit to be rented. The city attorney, interpreting the current city ordinance, assured the property owner that the property could be used for short term rentals so long as both the property was not rented for more than a total of 25 weeks per year and the property owner obtained a non-transient business tax receipt from the City. A couple of years later the City adopted new land development regulations which replaced the city ordinance for rentals and told the property owner he could no longer engage in short-term rentals. If the property owner files an action for declaratory relief seeking a determination of whether the new ordinance is applicable to the property, the trial court should:
- a. rule in favor of the City because the property's use was no longer a valid use.
 - b. rule in favor of the property owner because the property owner established a valid nonconforming use.
 - c. rule in favor of the property owner because the property owner asked permission.
 - d. rule in favor of the city if the evidence establishes that the city attorney interpretation of the ordinance was in error and was never presented to the City Commission for approval.

Answer: B

Eminent Domain

7. Eminent City needs property for a road project from Property Owner. Eminent City elects to obtain the property under the Eminent Domain "Quick Take" provisions of Chapter 74 of the Florida Statutes. After complying with all of the statutory prerequisites and obtaining an order after notice and hearing, the City deposits the amount of its good faith estimate of value into the registry of the Court. The deposit is made eleven (11) days after the date of the order granting the taking. The attorney for Property Owner claims that the deposit is not timely. The Judge should declare that the order granting the taking is:
- a. void and cannot be reinstated because the deposit of the City had to be made within ten (10) days.
 - b. valid and because the deposit of the City had to be made within twenty (20) days.
 - c. void because the statute requires the deposit of the City had to be made within ten (10) days but the order may be reinstated on the basis that a deposit on the eleventh (11th) day is in substantial compliance with the statutory process.
 - d. valid and because the deposit of the City had to be made within fifteen (15) days.

Answer: B

Practice & Procedures Before Local Gov't Legislative & Quasi Judicial Bodies

8. An applicant properly appealed the planning and zoning division's denial of his application to build a canopy over his marina slip to the town council. At the quasi-judicial hearing, the town council approved the building permit after the applicant presented substantial competent evidence supporting his position. However, no written ruling was filed with the town clerk. The town later voted, at a rehearing 35 days later, to reconsider the applicant's building permit and deny it. The applicant filed for a writ of prohibition in the circuit court, contending that the town did not have jurisdiction to reconsider the approval of the permit. Should the writ be issued?
- a. No, because a written order on the first decision had not been filed with town clerk, the time for invoking review jurisdiction of circuit court had not started to run.
 - b. Yes, because more than 30 days passed from the initial action approving the permit; therefore, the council's actions became final under the Florida Rules of Appellate Procedure.
 - c. No, because the applicant has not exhausted his administrative remedies under the Administrative Procedures Act.
 - d. Yes, because no new evidence was presented at the rehearing before the town council to justify the denial.

Answer: A

Sunshine Law and Public Records Law

9. Which of the following statements is **incorrect**?
- a. An agency of the state must allow inspection of its records but it is not required to provide copies.
 - b. If a requestor identifies a record with sufficient specificity to permit the agency to identify it and forwards the appropriate fee, the agency must furnish by mail a copy of the record.
 - c. Members of an advisory council are not entitled to copies of public records free of charge.
 - d. An agency may not charge for travel costs, search fees, development costs, or other incidental costs of producing a record.

Answer: A

Home Rule and Exercise of Police Power

10. The town council entered into a management agreement with the Friends of the Theater, Inc. (the “Friends”), a non-profit corporation, to fix-up and operate an old city recreation center as a performing arts center. Under the contract, the Friends agreed to split the net revenues with the town, but the Friends are also able set the cost of tickets and the rental rates for use of the building. A small group of performing artists (the “Artists”) opposes the contract claiming an illegal restraint of trade, and the creation of an illegal monopoly by the town, because there are no other venues to use downtown. However, the town council wants to be more entrepreneurial and approves the contract. The Artists file a lawsuit asking for a declaratory judgment pointing out that Section 542.18, Florida Statutes, states in part that “every contract, combination, or conspiracy in restraint of trade or commerce in the state is unlawful.” As town attorney, you are aware that Section 166.021(1), Florida Statutes provides the town with “governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law.” What should your advice to the town council regarding this lawsuit be?
- a. It doesn’t matter whether the town created a monopoly because the town cannot contract with a private entity to perform a public function.
 - b. The town council clearly created a monopoly which restrains trade and the contract must be terminated.
 - c. The town council may have created a monopoly, but it isn’t illegal because it is not “expressly prohibited by law” from doing so.
 - d. The town council is permitted to contract with a private entity to operate its facility, but depending on the facts, it may nonetheless be prohibited from doing so, if it creates an illegal restraint of trade.

Answer: D

Conflict of Interest/ Financial Disclosure

11. Space County Fire Department employs firefighters and paramedics to provide emergency services to the residents of Space County. In addition, Space County has granted two private, non-profit companies exclusive franchises to provide emergency fire and paramedic services within certain defined geographic areas of the county. Firefighters and paramedics employed by the Space County Fire Department also supplement their income by working for one or the other of the two franchised emergency services companies. Does this supplemental employment by the firefighters and paramedics constitute a prohibited conflict of interest under the code of ethics for public employees?
- a. Yes however, Space County may adopt an ordinance allowing the firefighters and paramedics to work for franchised emergency services companies.
 - b. Yes, and Space County may not adopt an ordinance allowing the firefighters and paramedics to work for franchised emergency service companies.
 - c. No, so long as the firefighters and paramedics do not work for the franchised companies during the working hours assigned by Space County.
 - d. No, the firefighters and paramedics have a constitutional right to find work to supplement their income and benefits.

Answer: B

Ethics

11. Under which of the following circumstances would the Code of Ethics for Public Employees require that a member of a county commission abstain from voting?
- a. A vote regarding commissioner's salaries.
 - b. A vote that results in a financial gain of the commissioner's uncle.
 - c. A vote that affects many citizens of the county, including the commissioner.
 - d. A vote that results in a financial gain of the commissioner's business associate.

Answer: D

Essay Question 1

Dorian County Sheriff's Office receives a 911 call from a female identifying herself as Wanda Parker from a residence located in Dorian County (the "residence"). Wanda tells the dispatcher that her husband, Philip Parker, has battered both her and their teenage son, Sam Parker. She and Sam are injured badly and need immediate medical attention. The dispatcher hears a male in the background screaming and Wanda sounds frantic. Wanda then screams in a panic that Philip has a gun and is aiming it at Sam and the call abruptly ends.

Several Deputies are dispatched to the residence. Most of the Deputies quickly arrive at the residence in their marked patrol cars with lights and sirens engaged. However, Deputy Dooley is involved in a traffic crash with Patricia Posey on his way to the residence in his marked patrol car with lights and siren engaged. Deputy Dooley has the green light, while Patricia has a red light. Patricia is the sole owner of the vehicle she is driving.

The Deputies are wearing standard patrol law enforcement uniforms which clearly denote that they are law enforcement officers. As Deputies approach the front of the residence, they note that the front window is broken, the front door is standing open, and they hear screaming coming from inside. When they arrive at the front door but are still outside with their firearms drawn, Deputies see Philip pointing a gun at Wanda and Sam. Wanda and Sam are standing with their hands up and are clearly terrified. The Deputies give several verbal commands for Philip to drop the weapon and that he is under arrest.

Philip drops the firearm and runs out the back of the residence. Deputy Dormer gives chase after Philip through the neighborhood. Deputy Dormer continuously gives verbal commands for Philip to stop, that Dormer is a Deputy and that Philip is under arrest.

Essay 1 continued on next page...

Deputy Dormer eventually catches up to Philip. Deputy Dormer repeats his commands, but Philip physically attacks Deputy Dormer by punching, kicking and trying to pull the Deputy down.

Philip and Deputy Dormer are physically about the same height and weight. Deputy Dormer receives several bruises and a laceration on his cheek requiring stitches. Philip receives several bruises. Deputy Dormer is eventually able to subdue Philip after using several knee spikes, which is a nationally taught and approved physical technique used by law enforcement officers. Deputy Dormer takes Philip into custody. Deputy Dormer arrests Philip for aggravated battery with a deadly weapon, false imprisonment, resisting an officer with violence and domestic violence battery.

You are the General Counsel for the elected Sheriff of Dorian County, Florida. Following the events described above, your agency timely received two notices of intent to sue, one on behalf of Patricia Posey, and the other on behalf of Philip Parker, which met all applicable legal requirements. Parker also made a public records request for the 911 dispatcher's computer screen notes from the 911 calls, which are records regularly made and kept in the course of business at the Dorian County Sheriff's Office, are available to all dispatchers and Deputies, and consist of a total of two pages.

Philip Parker files a federal lawsuit bringing an action under 42 U.S.C. §1983, alleging that Deputy Dormer violated Parker's 4th Amendment rights by utilizing excessive force. Parker sues Deputy Dormer in both his official capacity and personal capacity. Patricia Posey files a lawsuit in circuit court bringing a negligence case for damages in the amount of \$500,000 against Deputy Dooley in both his official capacity and personal capacity.

The Sheriff asks you to discuss the cases, including the analysis the courts should use, the defenses that should be raised, the probable outcomes, and how the public records request should be handled.

Essay Question 2

Land Owner acquires several adjacent small parcels of land in the City with plans to construct multi-family housing. The parcels have different zoning categories, and at her pre-application meeting, the City staff informs Land Owner that she will have to apply to change the designations to construct her project. Land Owner files the applications and posts notices about the upcoming hearing on the property.

During review of the application, the City staff determines that the proposal does not include enough parking spaces to meet code requirements. When the City transportation director informs Land Owner of this problem, he also suggests that the City has neighboring property that may be available for purchase and, if acquired, could be developed by Land Owner as parking for the project. The neighboring land had previously been taken by the City through eminent domain 15 years ago, as it had plans to construct a wastewater treatment plant on the site. That project was no longer necessary due to a recent interlocal agreement that provided countywide wastewater treatment service. Land Owner and City Staff then began to discuss a purchase price for the property, and upon coming to a tentative agreement, include the neighboring property in the rezoning request.

Nearby Activist, who routinely appears before the City on land use matters, sees the posted notice of hearing and immediately posts his opposition to the rezoning on Facebook and Twitter. District One Commissioner the City Commission-member for the area, sees the post on Facebook and begins communicating with Nearby Activist using the Facebook messaging function. Nearby Activist tells District One Commissioner that his primary concern is that Land Owner's property is a popular, if unauthorized, location for children's soccer games and if the City only had more soccer fields then he would not have a problem with the application. District One Commissioner—then publically posts on Facebook and Twitter: "No soccer, No rezoning for Land Owner."

Essay 2 continued on next page...

There was no legal review of Land Owner's application. The City Staff schedules the rezoning application and the agreement to purchase the neighboring property at the next City Commission meeting and, given the busy agenda, decides to place all of the actions in one agenda item to help with Commission meeting efficiency.

When the item on the agenda comes up, District Two Commissioner, the Chair of the 5-member City Commission, sees that there are only 10 minutes before lunch and since there are only a few people in the commission chamber, asks staff to proceed quickly. City staff recommends approval and Land Owner gives a short description of the multi-family housing project that she plans to build. District One Commissioner then asks Land Owner about the impact of the project on recreation options for local children.

Not being familiar with local soccer activity and not a user of Facebook or Twitter, Land Owner responds by insisting that the project will only have a positive impact on children, given the increased housing options that her project would provide. District One Commissioner then moves approval of the entire agenda item on the condition that Land Owner must construct a new soccer field at the City's recreation facility several miles from the property before she is allowed to pull a building permit. When Land Owner begins to object, District Two Commissioner, seeing the noon hour arrive, calls for the vote. The motion passes 3-0, with the District Four Commissioner and District Five Commissioner already having left for lunch. Neither Nearby Activist nor any other member of the public signed up to speak.

Analyze the following issues:

- 1. The City Commission's approval of the development, with a condition, of Land Owner's agenda item.**
- 2. The City's hearing process.**
- 3. The purchase of City property.**
- 4. The use of Facebook and Twitter by a City Commission member.**
- 5. Land Owner's ability to challenge the decision.**

Essay Question 3

John Q. walks into the City Police Department, and approaches the front desk where there is a sign in sheet for visitors. He notices that there is a surveillance camera on the ceiling. He asks the clerk at the front desk for a copy of the sign in sheet and a copy of the video recording from the surveillance camera for that day. The clerk at the front desk asks John Q. to fill out a request for public records form with his name, address and phone number and the things he wants copied, and tells John Q. she has never been requested to provide copies of the sign in sheet or the video recording in the past, so she will run it by her supervisor, and get back with him in a day or two. John Q. refuses to give her anything in writing, and tells the clerk he will be back tomorrow to pick up the copies.

John Q. then walks down the block and goes into the City Water Plant, which is operated by Green Services, Incorporated, as part of the City's policy to privatize services. The Plant Manager sees John Q. enter the plant, and asks if he may help him. John Q. asks the Plant Manager for a copy of the list of all employees that work at the Water Plant, their addresses and phone numbers, and a layout of the plant.

The Plant Manager tells John Q. the Water Plant is not operated by the City, and that Green Services is a private company. John Q. tells the Plant Manager he wants the list of all employees, addresses and phone numbers and plant layout, anyway, and, also, a copy of the contract between the City and Green Services and the Request For Proposals the City issued to give them the contract. He also wants copies of all payments made by the City to Green Services over the past year. The Plant Manager asks John Q. to write down what he wants and provide his name and phone number and why he wants the information, and the Plant Manager will run this by the City, and get back with him in a day or two. John Q. refused to give him anything in writing, and tells the Plant Manager he will be back tomorrow to pick up the copies.

Essay 3 continued on next page...

The next day, John Q. returns to the Police Department for his copies. The clerk tells him she spoke with her supervisor, and all he needs to give her is \$20 for the cost of duplication, and she will prepare the copies for him to pick up in 3 days. John Q. offers the clerk a \$20 bill, and she asks him to sign an acknowledgement for receipt of the documents. John Q. refuses to do so, and walks out without the documents.

John Q. then walks to the Water Plant for his copies. The Plant Manager tells him the City Clerk said to send John Q. to City Hall, and she will give him copies of what the City has. John Q. refuses to do so, and walks out.

Two weeks later, John Q. files a lawsuit in Circuit Court against the Police Department, the City and Green Services, Inc. for violation of the Public Records law. What issues are raised by these facts, and how should the City Attorney advise the City Manager regarding the merits of the lawsuit.